SUPREME COURT OF THE UNITED STATES.

No. 171.

THE UNITED STATES, APPELLANT,

v.

FELICIANO SOBERANES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings, in Case 505, FELICIANO SOBERANES, claimant, *v.* THE UNITED STATES, defendant, for the place named San Lorenzo.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this, Anno Domini one thousand eight hundred and Fifty , before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The Petition of Feliciano Soberanes, for the place named San Lorenzo, was presented, and ordered to be filed and docketed with No. 505, and is as follows, to wit: (Vide page 3 of this Transcript.) Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, December 31st, 1852.

In Case No. 505, Feliciano Soberanes, for the place named San Lorenzo, the deposition of Jose Abiejo, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. J. T. No. 1, annexed thereto, was filed: (Vide page 5 of the Transcript.)

March 23d, 1853.

In the same case the deposition of Jose Abiejo, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed: (Vide page 7 of this Transcript.)

August 10th, 1853.

On motion of the United States Law Agent, case No. 505 was ordered to be placed on the trial docket.

August 11th, 1853.

Case No. 505 called: The counsel read the evidence submitted on argument, and taken under advisement.

October 25th, 1853.

In the same case, Commissioner Thompson Campbell delivered the opinion of the Board, respecting the claim: (Vide page 25 of this Transcript.)

Petition.

To the Honorable the U. S. Land Commissioners for the ascertaining and settling of private land claims in the State of California,

The petition of Feliciano Soberanes, a Mexican by birth, respectfully showeth unto your honorable body, that on the 24th of May, 1841 (1841), he made and presented his petition in writing to the pre-

fect of the First District, soliciting for the benefit of himself and his family the grant of a certain tract of land, an accurate description of which will be given hereafter; and that said prefect transmitted said petition to Governor Alvarado, together with his own report in favor of your petitioner. That said Governor referred the subject to the first Alcalde of the municipality of Monterey to report thereon, and on the 27th of May, 1841, obtained his, the said Alcalde's, report, stating that the tract petitioned for was free and unoccupied, and liable to be granted; that said Alvarado thereupon, to wit, on the 2d of August, 1841, by virtue of the authority vested in him as Constitutional Governor of California, declared said lands to be the property of your petitioner, and directed the proper documents conferring title to be executed and delivered to him.

That this was done accordingly, and a proper grant issued on the 9th of August 1841, with all the formalities then required by law. And your petitioner further saith, that all the documents above referred to, as petition, references, reports, a certified copy of the original grant, and maps, are now on file in the archives of California, in the possession of the U. S. Surveyor-General for the State of California, and that duly certified copies and translations thereof are herewith submitted and prayed to be made a part of this petition. That the original grant and map are in the hand of your petitioner, and ready to be produced whenever required.

That the lands above referred to are situate in the County of Monterey, and known by the name of San Lorenzo, and bounded as follows: On the west and south by the Rio San Lorenzo, on the east by the creek which issues from said river, and on the north by the Sierra, containing altogether five Spanish square leagues.

And your petitioner further saith, that he has been in the quiet and peaceable possession of said land ever since said grant was made to him, exercising full and undisputed ownership over the same, and is not aware of the existence of any title paramount or superior to his own.

Wherefore he claims to be owner of said land, and prays, that your honorable body will confirm and validate his claims and title thereto.

CLARKE, TAYLOR, & BECKH,
Attorneys at Law.

Filed in office December 31st, 1852.

GEO. FISHER,
Secretary.

Deposition of Jose Abrego.

SAN FRANCISCO, December 31st, 1852.

On this day, before Commissioner Harry J. Thornton, came Jose Abrego, a witness in behalf of the claimant Feliciano Soberanes, petition No. 505, and was duly sworn, his evidence being interpreted the Secretary.

The U. S. Law Agent was present.

Question 1st. By Claimant. What is your name, age, and place of residence?

Answer. My name is Jose Abrego; my age forty years; and I reside in California.

Question 2d. Look at the original document now shown you, marked Exhibit 1, and now attached to your deposition, the said document purporting to be a grant of the tract of land called San Lorenzo, made by John B. Alvarado to Feliciano Soberanes, dated January 9th, A. D. 1842: state if you are acquainted with the handwriting of the persons whose signatures purport to appear upon said document, and, if so, whether the said signatures are genuine.

Answer. I am well acquainted with the hand-writing of Juan B. Alvarado, Manuel Jimeno, of Jose R. Estrada and Jose Maria Castanares, having known them for many years, and having often seen them write. The signatures upon said document are the genuine signatures of those persons respectively.

JOSE ABREGO.

Service acknowledged.

R. GREENHOW,
U. S. Law-Agent.

Taken, and sworn before me, this 31st of December, 1852.

HARRY J. THORNTON,
Commissioner, &c.

Filed in office December 31st, 1852.

GEORGE FISHER,
Secretary.

San Francisco, March 23d, 1853.

On this day, before Commissioner Hiland Hall, came Jose Abrego, a witness in behalf of the claimant, Feliciano Soberanes, petition No. 505, and was duly sworn; his evidence being interpreted by the Secretary.

The United States Associate Law-Agent was present.

Deposition of Jose Abrego.

Questions by Claimant.

Question 1st. What is your name, age, and place of residence?

Answer. My name is Jose Abrego; my age forty years; and I reside at Monterey.

Question 2d. State what you know in regard to the land petitioned for by Feliciano Soberanes, called San Lorenzo.

Answer. I have been acquainted with the same about ten years;

it has been in the exclusive possession and occupation of the petitioner, who has lived upon it during all that time, cultivating it, and using it for grazing purposes, and otherwise improving it.

JOSE ABREGO.

Sworn and subscribed before me.

HILAND HALL,
Commissioner.

Filed in office March 23d, 1853.

GEORGE FISHER,
Secretary.

JURISDICION DE MONTEREY, }
Ano de 1841. }

Espediente promovido por Don Feliciano Soberanes en solicitud del paroje conocido con el nombre de Sn. Lorenzo.

248.

Sello tercero Dos reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey, en el departamento de las Californias, para los anos de mil ocho cientos cuarento y mil ocho cientos cuarento y uno.

[SEAL.] (Ximeno) ANTONIO MARIA OSIO,
Sor Prefecto del 1er Distrito.

A.

Espediente.

Exmo Sor.

En la presente instancia solicito Dn. Feliciano Soberanes se le adjudique en propiedad el terreno conocido con el nombre de Sn. Lorenzo perteneciente al establecimiento de la Soledad.

Esta Prefectura no emite su opinion pr. q. las noticias q. pudieran darse le fundarle debian. Debian ser por el Admor de la Soledad y como to sea el solicitante to deja á la sup'r deliberacion de V. E.

JOSE F. CASTROS.

Feliciano Soberanes ante V. S. respetuosamente manifiesto que, encontrandose con bienes suficientes para pundar una finca de campo y con nuebe hijus barones y le cultiven, me veo en el caso de ocurrir por el conducto de dé V. S. á la bondad del Sup'r Gob'no de este Departamento con el objeto de que se digna concederme propiedad sel terreno nombrado San Lorenzo segun aparece del diseno que tengo el honor de acompanar.

No hace merito de los Servicias tengo prestados á la nacion pr. q. todos sus hijos estamos ob-

ligados á ellos mucho mas cuando pr. verificar á los ciud's no tiene presente equellos el Superior Gobierno pues que solo distinge el que por sus cantidades y virtudes es digno de ello.

Asi es que si V. S. me considera en el numero de los ciud's utiles y laboriosos le suplico cleve con sus informes esta mi solicitud en to que recibire el mayor beneficio.

FELICIANO SOBERANES,

MONTEREY, Mayo 24 de 1841.

MONTEREY, Mayo 26 de 1841.

Informe el Juez de Paz de esta municipalidad como es de costumbre con los datos que pueda adquirir sobre esta pretencion.

ALVARADO.

Sello tercero. Dos reales.

Habilitado provicionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de las Californias, para los anos de mil ocho cientos cuarenta y mil ocho ciento cuarenta y uno.

[SEAL.] (Ximeno) ANTONIO MARIA OSIO.

(For map, see original, page 11.)

Exmo. Sor.

En cumpliendo con el superior decreto de V. E., que antecede digo que el terreno que solicita el Ciudno. Feliciano Soberanes, en esta instancia, se haya en la actualidad baldio y por tener el mismo Sor los requisitos necesarios para ser atensido, soy de opinion que se le adjudique cuyo sitio si V. E. lo creyere de Justicia.

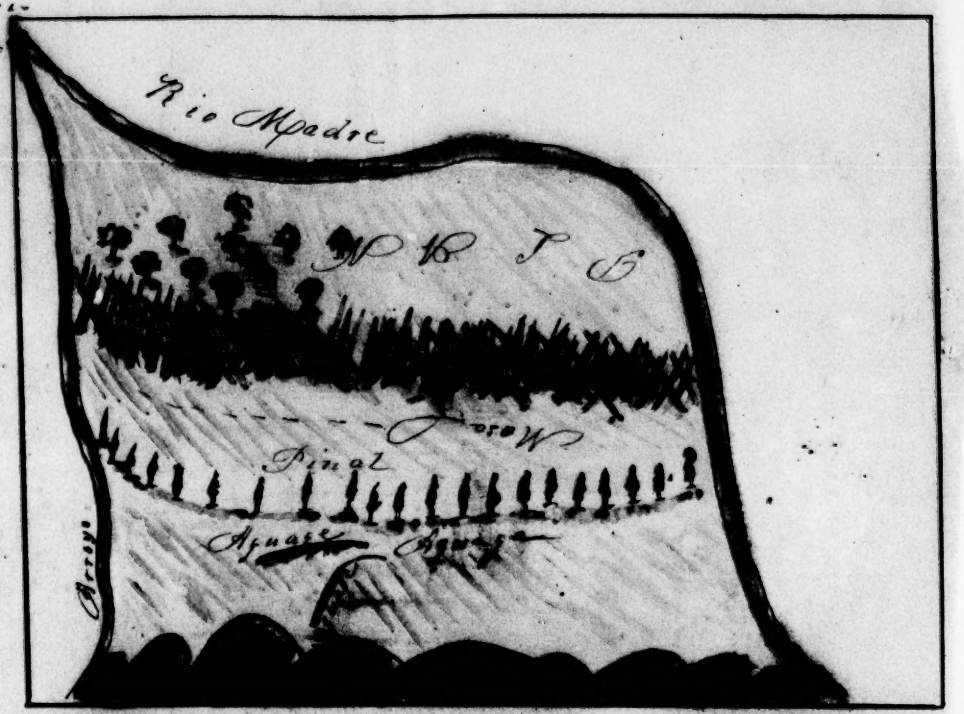
Monterey, Mayo 27 de 1841.

[SEAL.] SIMEON CASTRO.

MONTEREY, 9 de Agosto de 1841.

Vista la peticion con que da principio este Expediente, el informe del Prefecto de Primer Distrito, y el del Juez de Paz, de este lugar con todo lo demas, que se tuvo presente y ver comoino de conformidad con las leyes y reglam'tos de la materia, declaro á Don Feliciano Soberanes, dueno en propriedad del parajec onocido con el nombre de San Lorenzo colindante al Ote. con el arroyo que sale

El sitio q.e manifiesta en el presente diseño se componen de cinco sitios



Pag.a 11- N.o 171 —

de San Lorenzo al Pte. y al Sur con el Rio, y al Norte con la Sierra. Librese el despacho correspondiente, tomese razon en el libro respectivo y dirijiase este Espediente á la Exma Junta Departamental para su aprobacion. El Senor Don Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias asi lo mando, decreto y firmo de que doy fé.

El sitio q. manifiesta en el diceno se compone de cinco sitios.

JUAN B. ALVARADO,
Gobernador Constitucional del Departamento del las Californias.

Por cuanto Don Feliciano Soberanes, ha pretendido para su beneficio personal, y el de su familia el paraje conocido con el nombre de San Lorenzo, colindante al Oriente, con el Arroyo que sale de San Lorenzo al Poniente, y sur con el Rio y al Norte con la Sierra, practicadas previamente las diligencias, y averiguaciones conserni entes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas à nombre de la nacion Mexicana, hé venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras, sujetandose á la aprobacion de la Ema Junta Departamental, y á las condiciones signientes.

1a. Podra sercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo, que mas le acomode peró dentro de un anno fabricará casa y estará habitada.

2a. Cuando se le confirme la propiedad de el solicitará del Juez, respectivo que le ne posecion juridica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites, pondrá á mas de las mohoneras algunos arboles frutales ó cilvestros de alguna utilidad.

3a. El terreno de que se hace mencion es de sinco Sitios de Ganado mayor poco mas á menos segun esplica el diceno que corre agregado en el espediente respectivo.

El Juez que diere la posecion lo hará medir conforme á ordenanza quedando el sobrante, que resulte á la nacion para los usos convenientes.

4a. Si contraveniere á estas condiciones perdera su derecho al terreno, y sera denunciable por otro.

En consecuencia mondo que temendose por firme y valedero este titulo se tome razon de el en el libro respectivo, y se entregne al interesado para su resguardo y demas fines.

Dado en Monterey, à nueve de Agosto de mil ochocientos cuarenta y una.

OFFICE OF THE SURVEYOR-GENERAL OF THE UNITED STATES FOR THE STATE OF CALIFORNIA.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such now having in my office and under

my custody a portion of the Archives of the former Spanish and Mexican territory in Department of Upper California, do hereby certify, that the eight preceding and hereunto attached pages of tracing paper, numbered from one to eight inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents, on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the City of San Francisco, California, this twenty-third day of December, 1852.

[SEAL.]

SAMUEL D. KING,
Surveyor-General for California.

Filed in office December 31st, 1852.

GEORGE FISHER,
Secretary.

Jurisdiction of Monterey, Year 1841. Espediente of Feliciano Soberanes, petitioning for the tract of land known by the name of San Lorenzo.

248.

B.

Translation of A.

Mr. Prefect of the 1st District:

Feliciano Soberanes before your Honor respectfully exposeth, that possessing the means to develope the resources of a rural property, with nine male children, I deem proper to apply through your Honor to the Superior Government of this department, with the object that he may have the goodness of granting me the ownership of the tract of land, known by the name of San Lorenzo, as it is shown by the drawing or diseno, that I have the honor to accompany.

I will not praise the services that I have rendered to the nation, because all her children are duly bound to do so, specially when those services are seldom considered by the Supreme Government, who only remunerates those whose qualities and virtues make deserving of it.

So, if your Honor numbers me among the useful and laborious citizens, I beg of you, to address with your information this petition, conferring, by so doing, upon me the greatest benefit.

FELICIANO SOBERANES.

MONTEREY, May 24th, 1841.

Most Excellent Sir:

In the present petition, Dn. Feliciano Soberanes requests the adjudication of the tract of land, known by the name of San Lorenzo, belonging to the establishment of La Soledad. The Prefect does not

give his opinion, because the information he could give must come from the administrator of La Soledad, and as the petitioner is acting in that capacity, I leave it to the superior deliberation of your Excellency.

JOSE T. CASTRO.

MONTEREY, May 26th, 1841.

Let the Justice of the Peace of this municipality give information as it is customary, with statements of facts, that he may acquire regarding this petition.

ALVARADO.

Most Excellent Sir:

In fulfilment of the superior decree of your Excellency I say, that the land solicited by the citizen Feliciano Soberanes, in this petition, is vacant at present, and as said individual has the necessary requirements to have the grant, I am of opinion that your Excellency may adjudicate to him if deemed just.

SIMEON CASTRO.

MONTEREY, 27th May, 1841.

MONTEREY, 9th August, 1841.

Having examined the petition with which this Espediente begins, the information of the Prefect of the 1st District, and that of the Justice of the Peace of this place, with all that it has been deemed necessary to examine, in conformity with the laws and regulations upon this matter, I do declare Feliciano Soberanes legitimate owner of the tract of land known by the name of San Lorenzo, bounded on the east by the creek that issues from San Lorenzo, on the west and south by the river, on the north with the ridge. Give the corresponding patent, record it in the respective, and address this Espediente to the most Excellent Departmental Assembly for its approval.

Sr. D. Juan Bautista Alvarado, Constitutional Governor of the Department of both Californias, so ordered, decreed, and signed it, to which I certify.

JUAN B. ALVARADO,
Constitutional Governor of the Department of the Californias.

Whereas D. Feliciano Soberano has solicited for his personal benefit and that of his family, the place known by the name of San Lorenzo, bounded on the east by the creek which issues from San Lorenzo, on the west and south by the river, and on the north by the mountains, the necessary steps and investigations having been previously taken and made in conformity with the laws and regulations, I have by virtue of the powers conferred upon me, granted unto him, in the name of the Mexican nation, the land mentioned, declaring unto him the ownership thereof by these present letters,

and subject to the approval of the most Excellent Departmental Assembly, and to the following conditions:

1st. He may fence it in without prejudice to the crossings, roads and privileges, he shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit him, but within one year he shall build a house, and it must be inhabited.

2d. When the ownership thereof is confirmed unto him, he shall request the respective Justice to give him juridical possession in virtue of this title, and said magistrate shall designate the boundaries, at the limits whereof he shall, besides placing landmarks, plant some fruit trees or wild ones of some utility.

3d. The land whereof mention is made, is of the extent of five square leagues (sitios de ganado mayor), a little more or less, as appears by the plot which accompanies the espediente. The Justice who gives possession shall cause it to be measured according to law, leaving the surplus which may result to the nation for the necessary uses.

I consequently command that these presents being held as firm and valid, a record thereof be made in the respective book, and that this title be delivered to the party interested for his security and further ends.

Given at Monterey, on the ninth of August, eighteen hundred and forty-one.

Filed in office December 31st, 1852.

GEO. FISHER,
Secretary.

Doc. H. J. T. No. 1, *annexed to the deposition of Jose Abrego.*

Sello 1, Seis Pesos.

Habilitado provicionalm'te por la aduana maritima de Monterey para los anos de 1839 y 1840.

ALVARADO.
ANTONIO MA. OSIO.

Valga para el ano de 1842.

ALVARADO.
ANTONIO MA. OSIO.

[SEAL.] JUAN B. ALVARADO,
Gobernador constitucional del Departamento de las Californias.

Por cuanto Dn. Feliciano Soberanes ha pretendido para su beneficio personal y el de su familia, el paraje conocido con el nombre de San Lorenza colindante al Oriente con el arroyo que sale de San Lorenza, al Poniente y sur con el Rio y al Norte con la Sierra; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades

que me son conferidas a nombre de la Nacion Mejicana he benido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras y sujets a las condiciones y aprobacion de la Exma Junta Departamental a las condiciones signientes.

1a. Podra cercar lo sin perjudicar las travesias caminos y servidumbres; lo disfrutara libre y esclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un ano fabricara casa y estara habitada.

2a. Cuando se le confirme la propiedad de el solicitara del Juez respectivo que le de posecion Juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mohoneras algunos arboles frutales o cilvestres de alguna utilidad.

3a. El terreno de que se hace mencion es de cinco sitios de ganada mayor poco mas o menos segun esplica el diceno que corre en el espediente. El Juez que diere la posecion lo hara medir conforme a ordenanza quedando el sobrante que resulte a la nacion para los usos mas convenientes.

4a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero el presente, se tome razon de el en libro respectivo y se entregue al interesado para su resgardo y demas fines. Dado en Monterey a nueve de Enero de mil ocho cientos cuarento y dos.

JUAN B. ALVARADO.

MAN'L JIMENO,
S'rio.

Queda tomada razon de este titulo en al libro di acientas Sobre adjudicacion de terrenos baldios a $ f. 9, &c.

JIMENO.

El Exmo Sr. Gobernador ha dispuesto se tome razon de esta consecion en la Prefectura del 1er Districto.

JIMENO.

Tomese razon.

ESTRADA.

Queda tomada razon de este Sup'r titulo en el cuaderno respectivo de esta Prefectura a $ 5, prente.

JOSE MA. CASTANARES,
S'rio Into.

MONTEREY, Abril 2, de 1842.

Filed in office December 31, de 1852.

GEO. FISHER,
Secretary.

Seal of the first class, six dollars. Authorized provisionally by the maritime Custom House of Monterey, for the years 1839 and 1840.

(Signed) ALVARADO.
(Signed) ANTONIO MA. OSIO.

Made valid for the year 1842.

(Signed) ALVARADO.
(Signed) ANTONIO MA. OSIO.
[CUSTOM HOUSE SEAL.] JUAN B. ALVARADO,
Constitutional Governor of the department of the Californias.

Translation of C.

Whereas Don Feliciano Soberanes has solicited for his personal benefit, and that of his family, the place known by the name of San Lorenzo, bounded on the east by the creek which issues from San Lorenzo, on the west and south by the river, and on the north by the mountains; the necessary steps and investigations having been previously taken and made in conformity with laws and regulations, I have, by virtue of the powers conferred upon me, granted unto him in the name of the Mexican nation, the land mentioned, declaring unto him the ownership thereof by these present letters, and subject to the approval of the most Excellent Departmental Junta, and to the following conditions:

1st. He may fence it in without prejudice to the crossings, roads, and privileges; he shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit him, but within one year he shall build a house, and it must be inhabited.

2d. When the ownership thereof is confirmed unto him, he shall request the respective Justice to give him juridical possession in virtue of this title, and said magistrate will designate the boundaries at the limits whereof he shall, besides placing the landmarks, plant some fruit trees, or wild ones of some utility.

3d. The land whereof mention is made, is of the extent of five square leagues (sitios de ganado mayor), a little more or less, as appears by the plot which accompanies the espediente. The Justice who gives possession shall cause it to be measured according to law, leaving the surplus which may result to the nation for the necessary uses.

4th. If he should transgress these conditions he shall forfeit his right to the land, and it may be denounced by another.

I consequently command, that these presents, being held as firm and valid, a record thereof be made in the respective book, and that this title be delivered to the party interested, for his security and further ends.

Given at Monterey, on the ninth of January, eighteen hundred and forty-two.

(Signed) JUAN B. ALVARADO.
(Signed) MANUEL JIMENO,
Secretary.

A record of this title has been made in the book of entries respecting the adjudication of vacant lands, at folio 9, second page.
(Signed) JIMENO.

His Excellency the Governor has commanded a record of this grant to be made in the office of the Prefect of the First District.
(Signed) JIMENO.

Let it be recorded.
(Signed) ESTRADA.

A record of this superior title has made in the respective book of this Prefect's office, at folio 5, on the front page.
(Signed) JOSE MARIA CASTANARES,
Secretary, *ad interim.*

MONTEREY, April 2d, 1842.

I, the undersigned, do hereby certify the foregoing to be a true and faithful translation of the original, in possession of Don Feliciano Soberanes.

W. E. P. HARTNELL,
State Translator.

MONTEREY, 11th October, 1842.

Filed in office December 31, 1852.

"San Lorenzo," for 5 square leagues.

FELICIANO SOBERANES
v.
THE UNITED STATES.

Opinion delivered by Commissioner Thompson Campbell.

The claimant, in this case, represents in his petition, that, on the 9th day of August, A. D. 1841, he obtained from Governor Alvarado a grant in due form for the place called "San Lorenzo," containing five square leagues, and bounded as follows, to wit: on the west and south by the Rio San Lorenzo, on the east by the creek which issues from said river, and on the north by the Sierra. The claimant further represents, in his petition, that he has continued to enjoy the quiet and peaceable possession of said land, from the date of his said grant up to the time of filing his said petition. There is no proof of

any approval by the Departmental Assembly, and no proof of juridical possession having been given to the claimant of the premises described in his grant. The right, therefore, of the claimant to a confirmation of his claim rests altogether in equity. The claimant, in support of the allegations contained in his petition, has filed the original grant signed by Governor Alvarado, whose signature is proved to be in his handwriting. The grant bears date the 9th of January, A. D. 1842. The date, I think, is clearly an error; all the other papers, together with the espediente on file, shows that the proceedings took place in 1841, and the copy of the grant, and the espediente, bears date the 9th of August, A. D. 1841; this the claimant has admitted in his petition. It is proved by the deposition of Jose Abrego, that he had been acquainted with the ranch called San Lorenzo about ten years; that the same had been in the exclusive possession of the claimant, and that he had lived on it during all that time, cultivating it, and using it for grazing purposes, and otherwise improving it. The deposition contains all the evidence in regard to the inhabitancy of the claimant, filed in the case. As there is another insuperable objection to the confirmation asked for, it is unnecessary to enter into a critical examination of the evidence offered by the claimant to prove his inhabitancy of the tract of land mentioned in his grant; but I will here take occasion to say, that all such evidence is of the most unsatisfactory character. The two points to be proved were, first, the building of a house on the land within a year from the date of the grant, and, second, its actual inhabitancy by the grantee. Instead of proving these two plain and simple facts, in language which the witness understood himself, and could make every other person understand, he commences by stating that he had known the land about ten years; a most indefinite mode of expressing the precise time, when his knowledge first began. The deposition was taken in March, 1853; the grant was made in August, 1841, so that, giving him the benefit of the full ten years, he knew nothing of the ranch about which he was testifying, until seventeen months after the date of the grant. The deposition contains no direct statement, that any house was built on the land within the time prescribed by law, or at any other time; but instead of stating the fact, either affirmatively or negatively, if it was within his knowledge, he uses the general terms "possession," "occupation," "improvement," &c., all of which have a technical meaning in the law, the precise meaning which the witness himself attached to them is unknown to this Board. The whole deposition would seem to be an artfully devised form made up of set phrases intended to evade the true points at issue. Occupation is the result produced by certain acts of the party; what those acts were, the witness should have stated, and then the Commission could have decided, whether such acts constituted the kind of occupation required by the law. The grant is for five leagues of land, a little less or more; and the officer, authorized to give the juridical posses-

sion, is required, by the terms of the conditions attached to the grant, to measure and designate by proper landmarks the quantity located, leaving the surplus to the nation for its convenient uses. It does not appear that any such designation and measurement were made by the officer, or that the party made any request for the same as required by the expressed conditions of his grant. The description of the boundaries, out of which the grant was to be satisfied, is of the most general character, to wit: on the east by a creek, on the west and south by the river, and on the north by the mountains; and this general description is in no way aided by the map to which reference is made in the grant. The limits marked out might contain only five leagues, and they might embrace fifty leagues; we have no means of ascertaining anything near the quantity. The Governor who made the grant, it is evident, did not know the precise quantity contained within the boundaries described in his grant, and for that reason he directed the grantee to have the five leagues, which his grant called for, measured and defined by the usual landmarks, leaving the surplus, if there should be any, to the nation, to be disposed of as other public lands. If the limits, as described in the grant, do not contain more than five square leagues, that is a fact which is susceptible of proof, and the burden of making the proof devolved upon the claimant. If the limits contain a much greater quantity than is called for in the grant, it is clear that the claimant is not entitled to confirmation. The grant, in my judgment, can be construed in no other light than as a new order of survey, which has never been executed, an authority to locate five square leagues of land within a certain region of country, which location the party has failed to make. The land remains precisely in the same condition it was at the date of the grant in 1841, and, according to the principles heretofore decided by this Commission, passed to the United States unaffected by any vested equitable interest. For these reasons we are of the opinion that the claim in this case should be rejected.

Filed in Office Oct. 25th, 1853.

GEORGE FISHER,
Secretary.

San Lorenzo.

FELICIANO SOBERANES
v.
THE UNITED STATES.

Decree.

In this case, on hearing the proofs and allegations, it is adjudged by the Commission, that the said claim of the petitioner is not valid, and his application for a confirmation thereof, is therefore denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUGUSTIN THOMPSON,
Commissioners.

Filed in office Oct. 25th, 1853.

GEORGE FISHER,
Secretary.

No. 505.

Feliciano Soberanes, of the tract of land called San Lorenzo.

To the United States Board of Land Commissioners for the State of California.

Petition for Rehearing.

The petition of Feliciano Soberanes, the claimant above named, respectfully showeth, that within three months after the date of the grant filed in this case, petitioner had completed the erection of an adobe house upon the tract of land described in said grant; that said house was of large size, being twenty varas in length, and containing five rooms; that he took up his residence upon the said land within said three months, and has resided there ever since with his wife and fourteen children; that from the date of said grant up to the present time, he has every year had in cultivation at least half a league square of said land; that he had in his employment during all of said time, living in buildings erected by petitioner upon said land, from twenty to fifty Indians and other servants; that during all of said time he has had upon said land from 300 to 2000 cattle, from 100 to 500 horses, and from 70 to 1500 sheep.

Petitioner further shows, that the boundaries of said land are perfectly well known by all the adjoining and neighboring proprietors; that the location thereof is matter of such public notoriety, that it has been designated by name upon the map of the State, lately published by the Surveyor-General of California; that petitioner is prepared to prove all of the above-recited facts by numerous witnesses to the satisfaction of this Board, and that he would have done so before submitting his case to the decision of the Board, if he had for a moment supposed that such minuteness of evidence would be held to be necessary.

Petitioner further shows, that if his claim is not reconsidered by this Board, if he is compelled to resort to another tribunal for the establishment of his rights, he has great reason to fear and does fear, that such depredations will be made upon his property, as well movable as fixed, by persons acting upon the encouragement deemed to be derived from the late decision of the Board, that he will be immediately despoiled of the possessions he has so long enjoyed, dispossessed of the house he has builded for his wife and children, and driven from his home in his declining years, to seek his subsistence among a people whose language he does not know, and upon whose tender sympathies he could not very confidently count.

He, therefore, respectfully prays, that this Board would order a

rehearing of this case, and that the same may be awarded for further proofs.

J. CLARKE,
Attorney for Claimant.

Feliciano Soberanes, being duly sworn, deposeth and saith, that the matters and things set forth in the foregoing petition are true.

FELICIANO SOBERANES.

Subscribed and sworn to before me, this 4th day of October, A.D. 1853.

ALPHEUS FELCH,
Commissioner.

Filed in office November 8th, 1853.

GEO. FISHER,
Secretary.

FELICIANO SOBERANES
v.
THE UNITED STATES. } Application for a Rehearing.

Opinion of the Board on motion for Rehearing denied, delivered by Commissioner Thompson Campbell.

This is an application for a rehearing of this case, and for leave to file additional proofs. The record shows that the case was submitted to the Commission, a decision rendered, and a final decree entered before the filing of the petition, upon which the application under consideration is based. The petitioner represents, that upon a rehearing of the case he would be able to make the following additional proofs, to wit, that within three months after the date of the grant, he had completed the erection of an adobe house on the tract of land described in the grant, that he had taken up his residence on said land within said three months, and that he has resided there ever since with his wife and fourteen children. He further states that he would be able to show, that from the date of the grant to the present time, he has cultivated every year a half league square of said land, and that he had in his employment, during all that time, from twenty to fifty Indians and other servants; that he had from 300 to 2000 head of cattle, besides other stock on said tract of land. The petitioner also states, that he would be able to show by additional evidence that the boundaries of said tract are well known by the adjoining neighboring proprietors, and the location thereof is of such public notoriety, that it has been designated by name upon the map of the State lately published by the Surveyor-General of California. And the petitioner further avers that he would have established by proof all the foregoing facts and circumstances, before his cause was submitted for decision, if he had for a moment supposed that such minuteness of evidence would have been held to be necessary. It is also alleged in said petition, that he is in danger of suffering great

irreparable loss and damage by persons acting on the encouragement which they derive from the decision of this Commission, and he therefore prays that a rehearing may be awarded to him for the reasons above set forth. This petition is verified by the affidavit of the claimant.

The causes assigned for a rehearing in this case are novel in their character, and so far as I have been able to investigate authorities, are without precedent. The position assumed by the counsel in his argument, if I understood him correctly, admitted, or in other words did not question the correctness of the result arrived at by the Commission in the pleadings and proofs of the case, as it was submitted to them, but based his applications solely on the grounds of the want of knowledge of the particular kind of proof which the Commission might deem necessary to make out his case. The application for a rehearing of a case, after it has been decided by this Commission, and the final decree entered, must be governed by the rules as laid down by the Courts of Chancery in cases where applications of a similar character have been made. Tne following rules may be relied upon as the settled doctrine, which governs all applications for rehearing.

1st. It is a rule that a new trial will not be granted upon the production of new evidence, unless in case of surprise or fraud upon the party applying; still less will it be granted when the party is in possession of the evidence, but either from the exercise of discretion or neglect does not produce it at the trial. 1 Barbour, Ch. Pr. 157; 1 Pr. 133.

2d. A rehearing will not be allowed when the newly-discovered evidence is merely cumulative upon the litigated facts already in issue. 1 Story, C. C. 218; 2 Paige, 24; 3 Story, C. C. R. 299, 310, 311.

3d. A mistake of counsel as to the pertinency or force of evidence furnishes no ground for a rehearing. 1 Story, C. C. 299, 316; 1 Paige, 574.

4th. Nor will a rehearing be granted on account of the discovery of new evidence or new matter, nor because the importance of the testimony has only been ascertained since the decision, if the party had it in his power to ascertain its importance before the hearing, and has neglected to do so, although the justice of the case might be promoted by it. 1 Pet. C. C.

5th. Where the cause of not producing the evidence arose from the inattention or misjudgment of the defendants, a rehearing would be denied. 1 Pet. C. C. 379.

6th. If the facts proposed to be proved were known to the parties, or to their attorney, or solicitor, or agents, it is sufficient to rebut such an application. 3 Atk. R. 36.

7th. A rehearing is not a matter of course, but rests in the discretion of the Chancellor. 1 John. Ch. R. 48.

8th. After a decree in a cause, it must be a very special case,

which will justify the Court in opening the proofs, even to establish a new fact, which the party has neglected to prove through inadvertence. 2 Paige, 27.

9th. The offer to produce additional or new discovered testimony, which would make a point clear that was doubtful, has never been made the ground for allowing a rehearing. 3 Vermont, R. 148.

In cases where a rehearing has been allowed, they have generally been on the pleadings and proofs, as they were submitted to the Court, and where it was alleged the Chancellor had arrived at a wrong conclusion, or had made a misapplication of the law to the facts.

I now propose to test the causes assigned in the application under consideration for a rehearing in this case, by the foregoing rules, as laid down in the several authorities referred to. The petitioner does not pretend that his application is based on any error of judgment, on the evidence submitted in the case, but on the contrary expressly disavows it, but proposes to offer additional testimony in regard to the litigated facts already in issue. The new evidence which the claimant proposes to introduce on the rehearing of his case is not only cumulative upon the litigated facts already in issue, but it is oral testimony. In cases where rehearings have been granted for the purpose of introducing new evidence, the new evidence has almost always been in writing, and affected the very foundation of the decree. Courts of Chancery make a marked distinction between opening a cause for the introduction of new testimony by witnesses and of new documentary evidence. They place the distinction on the ground, that written evidence cannot be so easily corrupted, and although new witnesses may be discovered without subornation, they may be procured with it, and the dangers of admitting them makes it highly impolitic. Here the evidence is merely cumulative to the same point, upon which the party adduced evidence in the first hearing of the case. The evidence which is proposed to be given has not been discovered since the trial, but as appears from the petition was well known both to the party and to his counsel. There is no allegation even, that he was taken by surprise, or that there was fraud of any kind practised upon him. The point to which the new evidence is mainly directed, is not the point upon which the case was decided, and if the Counsel had turned to the opinion on file, he would have discovered that if he had even introduced the new evidence at the hearing of his case, it would not have changed the result. It is however true that the evidence adduced on the trial in regard to the question of inhabiting was of the most unsatisfactory character, and what makes it still more strange, is that the party should have rested a case of the magnitude which he now represents this case to be, in such loose evidence, when he states in his petition under oath facts which go to show that he had complied strictly with the conditions of his grant, and that those facts have not been disclosed to him

since the trial, but were well known when his case was submitted for final decision. We have seen that when it was in the power of a party to ascertain the importance of the evidence at the first hearing which he proposes to offer on a rehearing, and had neglected to do so, it would not be allowed, although the justice of the case might be promoted by it. This is precisely what the claimant now proposes to do; he desires to open the whole case anew, to adduce new testimony to the main points involved, and to supply the defect and omissions in his former evidence, and upon that evidence have the whole case rejudged, not on documentary testimony, but on the testimony either of the same witnesses or of others since discovered, and that too merely cumulative to what is now in the cause. This would be a novel practice in Courts of Equity, and would subvert all the old rules as to the admissibility of new evidence. The evidence adduced on the trial in regard to the performance of that condition of the grant which required a house to be built within a year was not only uncertain and doubtful, but the knowledge of the witness did not reach the time, within which the performance was required to be made, by a year and a half. If the new evidence to be produced is entitled to make the former evidence certain, or to make that clear which before was doubtful; according to the rule laid down in 3d Vermont Reports, 148, it furnishes no ground for a rehearing. The new evidence is not for the purpose of establishing any new fact, which the party had neglected to prove through inadvertence, but is intended as additional evidence of a fact already litigated, which instead of furnishing a cause for a rehearing, would not be admitted upon a rehearing granted for any other reason. The new testimony, which the party proposes to introduce in regard to the boundaries of the tract claimed, is subject to the same objections and comes within the same rules, which we have seen is applicable to the testimony in regard to the occupancy and cultivation of the land; besides, the evidence, if admitted, would in no way obviate the difficulty in this case. The claim was decided to be invalid, on the ground that it was a grant for a specific quantity of land to be located within certain exterior boundaries, which location was not proved to have been made by a competent authority anterior to the cession of the country to the United States. The new evidence, which the petitioner avers he is now prepared to produce, would not, if admitted, supply the deficiency; a record of juridical measurement made by the proper officer could alone furnish such proof, and this the party does not propose to introduce.

The petitioner alleges by way of excuse for not having furnished all the testimony which was in his power to produce at the trial, that he did not suppose such minuteness of evidence would have been held to be necessary, and for this reason he insists upon his right for a rehearing. The counsel in his argument advanced the proposition that the evidence was prepared in this case in conformity with the decision made by the former members of this Commission, and was

intended to meet their views of the law; but that the views of the present incumbents differed so widely and essentially from those advanced by their predecessors, that he was at a loss to know the kind of proof they would deem necessary to establish the validity of his client's claim, and for that reason the claimant was entitled to a rehearing. This proposition he did not pretend to support or fortify by a single authority, but contented himself with advancing some general views upon the equity powers with which the law had clothed this Commission. This Commission is essentially a judicial tribunal, and possessing none other than judicial attributes, and notwithstanding its members might change every month or every day, it would remain the same, and the decisions rendered would have precisely the same force and effect, and the same relation to each other, and though its members had never changed, in contemplation of law they are the same persons. I have never before heard it sincerely asserted, that because one Judge differed from his predecessor on the bench on a question of a law, or the construction of a statute, that it was a good cause for a new trial in a Court of Law, or for a rehearing in a Court of Chancery. The same reason would apply with equal force to the *to the* first decisions rendered by this Commission, if it had happened to be adverse to the claimant; his attorney in that case could have assigned the same reason which has been urged in this, viz.: that he did not know what the decision of the Court would be before it was pronounced, and having failed to make a case to suit views of the Commission, he was entitled to a rehearing, in order that he might make the requisite proof. The consequences to which a course of this kind would lead, are not difficult to foresee. It would open a door, not only to the grossest frauds, but would present the strongest motive for perjury and subornation of perjury. Counsel are not employed by their clients to wait until a decision is rendered in their case, in order to find the kind of evidence which they should have introduced, and then ask for a new trial for the purpose of enabling them to bring their case within the decision of the Court. The evil consequences to which such a practice would eventually lead are well expressed in the case of Jones *v.* Penefoy, 1 Vermont, 47. This was a case where a rehearing had been granted, and new proof was rejected by the Chancellor Finch, who it is said took notice of what dangerous consequences it would be that if after publication passed and people knew where a cause pinched, they should be at liberty to look up witnesses to bolster up the faulty part of their cause. The very state of circumstances which the learned Judge characterizes as leading to the most dangerous consequences, are to be found where the "cause pinches," and he now asks the liberty to "bolster up the faulty part," by the introduction of new witnesses and new testimony. I believe the whole course of proceeding both in law and chancery is opposed to such a course, and as no precedent has been furnished, I am satisfied none can be found. In Courts

of Law new trials are rarely granted on the ground of newly-discovered testimony, and in no case, I believe, has a rehearing in Chancery been allowed for that cause, still less would it be allowed, where the party admits, as he does in this case, that he would have introduced the very evidence which he now proposes to offer, if a rehearing should be granted, but which he did not offer at the former hearing, because he did not know it was necessary. Not only the practice in Courts of Equity, which this Commission as at present constituted announced at an early day would be strictly adhered to, but the intricate and important questions involved, and the great interests at stake, require in the first instance on the part of counsel a thorough examination and preparation for the hearing, and on the part of the Commission a most careful and exact study of the whole cause before judgment is pronounced. An able and learned Chancellor, in commenting on this very question, has said, that the other course, to the one suggested, "would encourage inattention or indifference, and induce the counsel as well as the parties to speculate upon contingencies, and to argue the case at large only when the Court had delivered the result of its opinion." If counsel do not fully appreciate the merits of their cause, or do not clearly comprehend the law of their case, it furnishes no reason for a rehearing, and Justice Story, in his opinion delivered on the Circuit, in the case of Barker et Ux. *v.* Whiting and al., 1 Story, C. C. R. 236, announces the same doctrine in the strongest and most explicit terms; he says; "But then it was said, that Whiting was misled by the language of his counsel, and that he ought not to be made to suffer therefor. But I apprehend that no Court of Equity has ever felt itself at liberty to grant an application of this sort upon the suggestion of an error of judgment or a mistake of law by counsel, as to the pertinency or force of evidence to be used in a cause."

And in the same case, which was an application for a rehearing, he insists in his opinion the views delivered by another learned Judge, which will be found in 3 Atk. R. 36, and which is as follows: "How many parties are there who know not the merits of their own cause, but rely on the skill of their counsel or solicitor, and therefore, what counsel or solicitor know, must be allowed to be the knowledge of the parties, and certainly it would not do to allow clients to have a rehearing or review of a cause, simply because their counsel have not appreciated the merits of their cause, or even have overlooked the importance of certain points of evidence, and therefore have omitted to have it taken for the cause." The very reason which the learned Judge, in the language just quoted, illustrates with so much force, as furnishing no ground whatever for a rehearing, is urged in support of the present application, viz.: that the counsel had overlooked the importance of certain points of evidence, and therefore had omitted to have it taken at the first hearing of the cause. Counsel in preparing cases for trial, consult their own judgment as to the law, and

although their views may not agree with the views of the Court, they may be right and the Court wrong, but I have yet to learn that such disagreement has ever been considered as furnishing a sufficient reason for a rehearing of a cause after the Judge had pronounced the result of his opinion. The decisions of this Commission can be reviewed, and that too by the highest Judicial Tribunal, but the party, before his case passes to this Court of last resort, will have an opportunity of perfecting his testimony; this privilege the law allows him, and that which he seeks to accomplish by a rehearing here, he can claim as a matter of right when his case reaches the District Court of the United States—he will then have an opportunity of shaping his testimony to suit the law as he understands it. In regard to the averment in the petition, that the claimant anticipate that great loss and damage may be sustained if the present decision of the Commission is permitted to stand, I can only say that the fears of the petitioner furnishes no legal reason for a rehearing of his case.

This is a country of laws, and they should afford an adequate remedy for every injury, and those who rely upon the law alone for protection are seldom disappointed. I have treated this application by the rules which Courts of Chancery have applied to similar proceedings, and in doing so, I have carried out what I conceived to be the true intent and meaning of that provision of the law of the 3d of March, 1851, which requires the Commissioners to adopt the "principles of equity," as one of the rules by which their decisions must be governed. An imperfect notion of their terms and of the power they confer upon this Commission seem to be entertained, and are by some supposed to be urged in their most general sense. We are accustomed to call that equity, which, in human transactions, is founded in natural justice, in honesty and right, and which properly arises *ex equo et bono.* The Supreme Court of the United States, in the adjudication of similar questions under the law of 1824, which requires that Tribunal to be governed by the same rules of equity which have been prescribed for this Commission, did not assume a jurisdiction so wide and extensive as that which would arise from the broad principle of natural justice above stated. That Court, in giving a construction to the words "principles of equity," say, that they are to be understood as those rules which govern proceedings in all Courts of Chancery, and this Commission, adopting the same construction, have been governed in their decisions by those rules, as far as they were understood to be applicable. It is said, "there are certain principles upon which Courts of Equity act, which are very well settled. The cases which occur are various, but they are decided upon fixed principles. Courts of Equity have, in this respect, no more discretionary powers than Courts of Law." (See 1st Story's Equity Jurisprudence, Sec. 20.) The decisions of this Commission will be tested and tried by fixed principles, and not by the arbitrary notions of arbitrary Judges. While it is true that our Government assumed all the obligations in-

cumbent upon the former Government in regard to private property, and by her treaty stipulations agreed to do all that the Mexican Government was in good conscience bound to do; it is not true that this Commission has been clothed with the same general powers, or that it occupies the same position. Many of the obligations assumed by our Government are of a political character, and to be discharged, require an exercise of political power which the Constitution has confided to Congress alone. I have deemed it fit on this occasion to state explicitly the principles and rules which have governed the Commission in their consideration of this application, and to make a full collection of the authorities upon which they base the result at which they have arrived. In our opinion the petition contains no sufficient reason for a rehearing of this case: the motion is therefore denied.

It is proper to state that the decision of the Commission on the application of the petitioner is made upon the pleadings and the position this case occupies on the record. The petition we have considered as being in the nature of a bill of review, which lies only after a final decree; the questions involved in such an application are, of course, different from those that would arise upon an application for a rehearing, where the decree is only interlocutory, or where no decree at all has been entered. The practice in Courts of Chancery recognize this distinction.

Filed in office November 29th, 1853.

GEO. FISHER,
Secretary.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, Secretary to the Board of Commissioners to Ascertain and Settle the Private Land Claims in the State of California, do hereby certify the foregoing forty-two pages, numbered from 1 to 42 both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 505, on the docket of the said Board, wherein Feliciano Soberanes is the claimant, against the United States, for the place known by the name of San Lorenzo.

In testimony whereof I hereunto set my hand, and affix my private seal (not having a seal of office) [PRIV. SEAL.] at San Francisco, California, this fourth day of August, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

(Signed) GEORGE FISHER,
Secretary.

United States District Court, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, November 30th, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States, for the Southern District of California, do hereby certify, that the foregoing 43 pages, numbered from 1 to 43, both inclusive, contain a full, true, and correct copy of Transcript No. , filed in this office, wherein Feliciano Soberanes is appellant, and the United States are appellee, for San Lorenzo.

In testimony whereof I have hereunto set my hand, and affixed the seal of said Court at Los Angeles, California, this thirtieth day of November, A. D. 1855, and of the Independence of the United States of America the eightieth.

[SEAL.]

C. E. CARR,
Clerk.

District Court of the United States, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, November 30th, 1855.

FELICIANO SOBERANES, Appellant,
v.
THE UNITED STATES, Appellee.

Docket No. 27.
Transcript No. 505.

Be it remembered, that in the above-entitled cause on appeal to the District Court of the United States for the Southern District of California, in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle private land claims in California,

The following proceedings were had, to wit:

Transcript from the Board of Commissioners in said case No. 505, on the docket of said board, filed and marked No. 27, on the docket of this Court.

(Vide page 1.)

Notices of intention to prosecute appeal by the appellant, filed September 15th, 1854, and 12th December, 1854.

(Vide page 3.)

Upon which notice the following subsequent proceedings were had in their chronological order, to wit:

Orders of Court, granting leave to take further testimony. Filed April 23d, and June 15th, 1855.

(Vide page 4.)

Deposition of Rafael Pinto, and Joaquin de la Tone. Filed 16th June, 1855.

(Vide pages 5 to 7.)

Petition for review by appellant. Filed September 19th, 1855.

(Vide page 8.)

Answer to petition for review by United States District Attorney. Filed September 20th, 1855.

(Vide page 9.)

Decree entered confirming the claim, by Hon. M. H. McAlister.

(Vide page 10.)

Order of Court, granting an appeal to the Supreme Court of the United States.

Filed October 18th, 1855.

(Vide page 11.)

United States District Court, Southern District of California.
City and County of Monterey.

Whereas the Commissioners constituted for the purpose of ascertaining and settling Private Land Claims in the State of California, by act of the Congress of the United States, did decide against the right and title of the undersigned for the place called "San Lorenzo," now the Ex-Mission of Solidad, in the County of Monterey, State aforesaid, and numbered 505 in records of the aforesaid Commission,

You will please, therefore, take notice, that it is my intention to prosecute an appeal against the aforesaid decision:—the said appeal being taken from the said Board of Land Commissioners to the Honorable District Court of the United States, for the Southern District of California.

Witness my hand, this fifteenth day of September, A. D. 1854.

(Signed) FELICIANO SOBERANES.

To the Clerk of the United States District Court for the Southern District of California.

Received September 15th, 1854.

Filed September 15th, 1854.

(Signed) A. S. TAYLOR,
Deputy Clerk.

A second notice of appeal, also filed by the appellant on the 12th December, 1854.

(Signed) C. E. CARR,
Clerk.

In the United States District Court for the Southern District of California.

FELICIANO SOBERANES, Appellant,
v.
THE UNITED STATES, Appellee. } No. 27.

Honorable Isaac S. K. Ogier, Judge, appellee.

Motion for leave to take further Testimony.

The above-named Feliciano Soberanes, the appellant in this cause (being No. 505, on the docket of the Board of U. S. Land Commissioners to ascertain and settle Private Land Claims in the State of California), by attorney moves the said Court, that leave be granted him to take further testimony in the above-entitled suit.

(Signed) D. S. GREGORY,
Attorney for Appellant.

22d April, 1855.

Filed April 23d, 1855.

C. E. CARR,
Clerk.

(Motion granted by the Court.)

U. S. District Court, Southern District of California.

FELICIANO SOBERANES
v.
The UNITED STATES.

San Lorenzo. No. 27.
Transcript No. 505.

Motion for leave to take additional Testimony.

In this cause, on motion of claimant in person, P. Ord, Esq., Attorney and Counsel for respondent, and appellee present, ordered that testimony be taken in this cause by either party.

Filed June 15th, 1855.

C. E. CARR,
Clerk.

District Court of the United States, Southern District of California.

FELICIANO SOBERANES, Appellant,
v.
THE UNITED STATES, Appellee.

No. 27. "San Lorenzo."

Deposition of Rafael Pinto, a witness on the part of appellant, taken by consent of parties at Monterey, June 16th, 1855, before Charles E. Carr, U. S. Commissioner, appointed to take testimony in this case. Present D. S. Gregory, attorney for appellant, P. Ord, attorney for the United States.

Rafael Pinto, being duly sworn deposes and says:

Question 1st. What is your name, age, place of residence, and present occupation?

Answer. My name is Rafael Pinto, my age thirty-seven years. I reside in Monterey. My occupation that of a Ranchero.

Question 2d. Do you know the Rancho of San Lorenzo, situated in Monterey County? If yea, state if it has been occupied, how long, by whom, and in what manner?

Answer. I know the said Rancho of San Lorenzo. I know that it has been occupied since the year 1841, till about ten months ago, by Feliciano Soberanes, with his family, with house, corrals, cattle, horses, and mares. Said Rancho belonged formerly to the Mission of La Solidad. When the Governor gave permission to individuals to ask for Mission Lands, San Lorenzo was solicited by Soberanes, and granted to him; it was then vacant land.

Question 3d. Do you know the boundaries of the Rancho of San Lorenzo? if yea, state what they are, and what quantity of land is embraced therein (objected to by the U. S. Attorney).

Answer. I know the boundaries of San Lorenzo. It is bounded on the east by the arroyo de San Lorenzo, on the north by the hills of Pinalitos, on the northwest by the aroryo of Chalon. On the south of the River Salinas. There are about five or six leagues within these boundaries (objected to by the U. S. Attorney). These natural boundaries are well known.

Cross-examined by the U. S. Attorney.

Question 1. In what manner did you obtain information of the boundaries of the land, as above described?

Answer. I obtained my information when visiting said Rancho. I asked the sons of Soberanes, and the Colindantes, who told me that the boundaries were those I have before stated, and from information I obtained while acting as the agent of Vallejo, who has leased the Ranch. This lease was made about ten months ago.

Question 2. How far is this Ranch from the sea-coast?

Answer. About ten or twelve leagues.

RAFAEL PINTO.

Sworn to and subscribed at Monterey, this 16th day of June, 1855, before me,

C. E. CARR,
U. S. Commissioner.

Filed 16th June, 1855.

C. E. CARR,
Clerk.
By A. S. TAYLOR,
Deputy Clerk.

U. S. District Court, Southern District of California.

FELICIANO SOBERANES, Appellant,
v.
The UNITED STATES, Appellee.
} No. 27. "San Lorenzo."

Deposition of Joaquin de la Fone, a witness on the part of appel-

lant, taken by consent of parties before Charles E. Carr, U. S. Commissioner, appointed to take testimony in this case. Present, D. S. Gregory, Attorney for claimant, P. Ord, U. S. Attorney.

Z. Abrigo sworn as Interpreter.

Joaquin de la Torre, being duly sworn, deposes and says:

Question 1. What is your name, age, place of residence, and present occupation?

Answer. My name is Joaquin de la Torre; my age forty-two years; I reside in Monterey; my occupation is farming.

Question 2. Do you know the rancho of San Lorenzo, situate in the County of Monterey? If yea, state whether it has been occupied, by whom, how long, and in what manner.

Answer. I know the rancho of San Lorenzo; It has been occupied by Feliciano Soberanes since the year 1840; he occupied it in 1840 by permission of the Governor; in 1841 the title to it was given him. Soberanes has on it a house, corals, cattle, and horses, and a portion of it under cultivation.

Question 3. Do you know the boundaries of said rancho of San Lorenzo? If yea, state what they are, and how much land is included within them. (Question objected to by the U. S. Attorney.)

Answer. I know the boundaries of San Lorenzo; it is bounded on the east by the arroyo of San Lorenzo, on the north by the Pinalitos, on the south by the arroyo of the Chalon, on the west by the Salinos River. The rancho contains about five or six leagues. (Objected to by the U. S. Attorney.)

Cross-examined by the U. S. Attorney.

Question. How did you obtain a knowledge of the boundaries you have spoken of?

Answer. I asked for the land before Soberanes asked for it. This is all the information I have about the boundaries.

Re-examined in chief.

Question. Have you ever seen those natural boundaries, and are they well known?

Answer. I have seen them, and they are well known.

JOAQUIN DE LA FONE.

Sworn to and subscribed at Monterey, this 16th day of June, 1855, before me,

C. E. CARR,
U. S. Commissioner.

Filed 16th June, 1855.

C. E. CARR,
Clerk.
By A. S. TAYLOR,
Deputy.

FELICIANO SOBERANES
v.
THE UNITED STATES. } No. 27.

To the Honorable the District Court of the United States, for the Southern District of California.

The petition of Feliciano Soberanes respectfully states, that this cause is an appeal from the decision of the Board of the United States Commissioners for the ascertainment and settlement of private land claims in California. That the claim, filed by your petitioner before said Board, was for five leagues of land in the County of Montery, viz., in the Southern District of California; for a description of which land, and your petitioner's title thereto, reference is hereby especially made to the petition filed before said Board; that, after hearing said petition, and the proofs filed in said cause, said Commissioners, on the 25th of October, 1853, decided said claim to be invalid; that the transcript of the record of said proceedings was filed in this Court, on the 19th of August, 1854, and a notice of appeal filed by claimant on the 15th of September, 1854.

Your petitioner prays, that the said decision of said Board may be reviewed, and that this Court may confirm his title to said land.

J. CLARKE,
Attorney for Claimant.

Filed September 19th, 1855.

C. E. CARR,
Clerk.

In the District Court of the United States, for the Southern District of California.

Hon. Isaac S. K. Ogier, Judge.

Answer to Petition for Review.

FELICIANO SOBERANES
v.
THE UNITED STATES. } No. 27. Transcript No. 505.

The answer of Pacificus Ord, Attorney of the United States for the Southern District of California, to the petition of Feliciano Soberanes, for a review of the decision of the United States Land Commissioners for the State of California, for and in behalf of the United States, says,

That he denies generally, all and singular, each and every allegation in the said petition contained; and he denies further that the alleged title of the said petitioner and claimant is valid; and he

prays that this Honorable Court will affirm the decision of the said Commissioners, and decree the said title to be invalid, and general relief.

(Signed) P. ORD,
Attorney of the United States for the Southern District of California.

Filed September 20th, 1855.

C. E. CARR,
Clerk.
By J. W. ROSS,
Deputy.

District Court of the United States for the Southern District of California.

Decree by McAllister, Justice.

FELICIANO SOBERANES, Appellant,
v.
THE UNITED STATES, Appellee. } No. 27.

For San Lorenzo.

This cause coming on to be heard at a Stated Term of this Court, on appeal from the final decision of the Commissioners to ascertain and settle the private land claims in the State of California, under the Act of Congress, approved 3d March, 1851, upon the transcript of the decision and proceedings, and the papers and evidence on which said decision was founded, and upon additional evidence given before this Court, and it appearing to the Court that said transcript has been duly filed according to law, and the counsel for the respective parties having been heard, It is ordered, adjudged, and decreed, that the decision of the said Commissioners be, and the same is hereby reversed and annulled; and it is further ordered, adjudged, and decreed, that the claim of the appellant, Feliciano Soberanes, be confirmed to the tract of land known by the name of "San Lorenzo," it being the same land described in the grant, a copy of which is on file in this case, and the map accompanying it, and of which the appellant is proven to have been in possession, to the extent of five square leagues, and no more. Provided, the said quantity of five square leagues hereby confirmed be contained within the boundaries mentioned in said grant, and if there be a less quantity than the said five square leagues within said boundaries, then such less quantity is hereby confirmed to the appellant.

(Signed) M. HALL McALLISTER,
Judge Circuit Court United States, for the District of California.

In the United States District Court for the Southern District of California.

Special Term, September, 1855. Los Angeles.

FELICIANO SOBERANES, Appellant,
v.
THE UNITED STATES, Appellee.
} Transcript No. 505. No. 27.

On motion of P. Ord, Attorney of United States for the Southern District of California, it is ordered by the Court, that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court, against the United States, in the above-entitled cause, rendered on or about the 24th day of September, A.D. 1855.

P. ORD,
U. S. District Attorney.

Filed October 18th, 1855.

C. E. CARR,
Clerk.

United States District Court, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, November 30th, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing eleven pages, numbered from 1 to 11, both inclusive, to contain a true, correct, and full Transcript of the record of the proceedings and of the decision of the said Court, of the documentary evidence, and of testimony of the witnesses upon which the same is founded, on file in the office, in case No. , on the docket of the said Court, wherein Feliciano Soberanes is appellant, and the United States is appellee, for San Lorenzo.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Los Angeles, California, this [SEAL.] thirtieth day of November, A.D. 1855, and of the Independence of the United States of America the eightieth.

C. E. CARR,
Clerk.

72.

SUPREME COURT OF THE UNITED STATES.

No. 172.

THE UNITED STATES, APPELLANTS,

v.

DAVID W. ALEXANDER AND FRANCIS MELLUS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in case No. 338. David W. Alexander & Francis Mellus, Claimants, *v.* The United States, Defendant, for the place named Providencia.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this eleventh day of September, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of David W. Alexander & Francis Mellus, for the place named Providencia, was presented, and ordered to be filed and docketed with No. 338, and is as follows, to wit. (Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

L ANGELES, Sept. 22d, 1852.

In case No. 338, D. W. Alexander and Francis Mellus for the place named "Providencia," the deposition of Antonio F. Coronell, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with annexed documents marked Nos. 1 & 2, was filed. (Vide page 4 of this transcript.)

LOS ANGELES, November 5th, 1852.

In the same case the deposition of Hugo Reid, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed. (Vide page 6 of this transcript.)

SAN FRANCISCO, Aug. 16th, 1853.

Case No. 338 called. The counsel for the claimants read the evidence, argued, submitted, and taken under advisement.

SAN FRANCISCO, Oct. 18th, 1853.

In the same case Commissioner Thompson Campbell delivered the opinion of the Board confirming the claim. (Vide page 45 of this transcript.)

Petition.

To the Honorable Board of the United States Land Commissioners appointed to settle private land claims in California.

The petition of David W. Alexander and Francis Mellus respectfully show, that they are the claimants of one league of land, more or less, situated between the Rancho formerly known as the Rancho

of Mess. Berdugos, on the south by the hills that lie on this side, at the north by the mountains, and at the west by Cohuenga, reference being had for a more particular description of the said lands to the original papers, copies of which are herewith filed, and which your petitioners pray may be made a part of this petition.

That said lands were granted to Don Vicente de la Ossa by Gov. Manuel Micheltorena on the 23d day of March, A. D. 1843, by virtue of the colonization laws of Aug. 18, 1824, the instructions and regulations of Nov. 21, 1828, and the various laws of Mexico, and the customs of the country affecting grants of land in California. Your petitioners further show that on or about the 18th day of March, A.D. 1846, said grant received the approval of the Departmental Assembly, and on or about the 4th day of May, A.D. 1843, the said Don Vicente de la Osa received juridcial possession of said lands, and was put in possession thereof by the proper judicial officer.

Your petitioners further show, that on or about the 30th day of October, A.D. 1849, the said Don Vicente de la Osa by deed duly authenticated, sold and conveyed the said lands to your petitioners, together with all the rights and claims of the said Don Vicente de la Osa therein, his heirs and assigns, for ever, reference being had to said original deed, a copy of which is herewith filed, and which your petitioners pray may be made part of this petition. The evidence upon which your petitioners rely are the records of this grant in the office of the United States Surveyor-General, original papers, copies of which are herewith filed, and the testimony of witnesses to be produced before your Honorable Board.

Respectfully submitted for such action as the justice and nature of the claim may require.

E. O. CROSBY,
Of Counsel for Claimants.

Filed in office Sept. 11th, 1852.

GEO. FISHER,
Secretary.

Deposition.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS.
LOS ANGELES, September 22, 1852.

On this day, before Hiland Hall, one of the Commissioners for ascertaining and settling private land claims in California, came A. F. Coronel, a witness, produced in behalf of the claimants, David W. Alexander and Francis Mellus, whose petition is No. 338 on the Docket of the Board, and was duly sworn. His evidence, being given in the Spanish tongue, was interpreted by the Secretary. The U. S. Law Agent attended.

In answer to questions by the Counsel for the claimants the witness testified as follows:—My name is Antonio F. Coronel. My

age thirty-three years. I am a resident of Los Angeles, where I have resided for the last fifteen years. I am acquainted with the handwriting and signatures of Manuel Micheltorena, Francisco Arce, Jose N. Arguillo, Antonio F. Coronel, Jose S. O. Donojo, Julian Chaves, Pio Pico, Jose Maria Moreno, Juan Sepulveda, Vicente de la Osa, Jesus Guirado, and Jesus Diego. A paper being shown me, purporting to be a grant from Governor Micheltorena to Vicente de la Osa, dated March 23, 1843, and to which is attached a copy of a record of juridical possession, the approval of the Departmental Assembly, and an instrument of sale to Alexander and Mellus, I have examined the signatures of the said several persons beforenamed, which appear upon said papers, and I have no doubt they are all genuine. I believe the whole document is genuine, and what it purports to be, and that it is made in conformity to the laws in force at the time its several parts bear date. Said paper is hereto attached, and marked No. 1. I was alcalde, and as such gave the juridical possession which is shown by said papers. My own signature is one of those above-named, and it was made at the time the paper bears date. I am acquainted with the handwriting and signatures of Juan Sepulveda, Jesus Girado, and Ramon Herrera. Their signatures appearing upon a paper now shown me, purporting to be an instrument of conveyance from Vicente de la Osa, to Alexander and Mellus, dated October 30th, 1849, I believe are genuine. Said paper is hereto annexed, and marked No. 2. I believe it to be a genuine paper.

A. F. CORONEL.

Subscribed and sworn before me.

HILAND HALL,
Commissioner.

Filed in office September 22, 1852.

GEO. FISHER,
Secretary.

Deposition.

Los Angeles, Nov. 5th, 1852.

On this day, before Commissioner Hiland Hall, came Hugo Reid, a witness in behalf of the claimants, David W. Alexander and Francis Mellus, petition No. 338, and was duly sworn, his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

In answer to questions by claimants' counsel, the witness testified as follows:

My name is Hugo Reid; my age forty-one, and I reside at San Gabriel, in the County of Los Angeles; I have lived in California nineteen years.

I am acquainted with the Rancho called Providencia; it is about

three leagues from this place, in a northerly direction; it was granted to Vicente de la Osa, by Gov. Micheltorena, in 1843 or 1844; it was occupied immediately by Osa, by building a house on it and living in it, by cultivating the land and putting cattle on it. He continued on the place until he sold to Alexander and Mellus, and they have occupied it ever since, and now occupy it.

HUGO REID.

Sworn and subscribed before me.

HILAND HALL,
Commissioner.

Filed in office November 5th, 1852.

GEO. FISHER,
Secretary.

1. S. D. K.

Espediente.

Promovido por el Ciudadano Vicente de la Osa en solicitud de un terreno Cahuenga y Rancho de Berdugos. (1843.) 426.

No. 2. S. D. K.

Espediente.

Sor Prefecto 2 distrito.

[L. S.] Vicente de la Ossa de esta vecinidad con la mayor sumision y respecto ante V. S. hago presente que siendome ya insoportables los padecimientos, perjuicios y perdidas que he sufrido en mis costos bienes de campo a que reduce el unico haber qe. por muchos anos de afanas consequi pr. no tener un sitio propio donde reducirlos, y encontranda uno en la corporacion de esta ciudad el cual se halla Oeste del Rancho de Verdugos desde donde descabesa el Rio del Pueblo hasta donde sembro mais ahora la ex-mision de San Fernando suplico a V. S. Se sirva concedermelo en propiedad para los pues indicados pues aunque antes lo ocupado dicha exmision con algunos bienes semovientes tal vez perteneciente a ella a la fecha se halla absolutamente valdio dicho paraje y necie la circonstancia de hallarse aquerenciado en el mi ganado y caballada unicos vienes del campo que alli se ven que con la ocasion de haber vivido por el tiempo de dos anos en el espresado Rancho de Verdugos como arrimado con permiso del dueno tomaron dicha guerencia mis bienes

Aug't Eno. 27, de 1843.

De conformedad con las leyes y reglamentos de la Materia inf'e al Juez, 2o de paz de esta ciudad si el terreno qe. solicita el interesado pertenece a corporacion comunidad particular si esta comprendido en las 10 leguas, litorales o 20 limitrofes si el interesado tiene bienes por cubrirla y los requisitos necesarios para ser atendido con [3 S. D. K.] todo lo demas que parezca conveniente a ilustrar la materia y evacuado asi pasa al Mayordo. De S.

Fernando pa. que reproduzca el suyo en enanto a aquella commendad y vuelva el expediente a ésta Prefectura para los demas fines que lo convengan. A. V. S.

ARVIELLO.

JOSE MA. AGUILLO,
Srio.

en aquella parte sin duda por hallarse contiguo este citio aci como ser la vega del Rio y tener vienes.

El terreno de que hago mencion es bastante corto como lo vera V. S. por el diceno que debidamente acompano: que en su mayor anchura tendra media legua este es en el extremo que forma lindero rumbo Sur a Norte y de largo tomando linea recta del repitido rancho de Verdugos a la Norte de la Territa qe. hase lindero al ultimo rumbo espresado tendra una legua poco mas o menos, cuya estension no tiene el otro lado hacia el Sur pr. formar en si dicho paraje una figura con triangular como lo representa el espresado diseno. Por tanto A. V. S. rendidamente suplico que tomando en consideracion lo Espuesto se sirva concederme esta gracia por ser de Justicia que pido y espero alcanzar del bondadoso corazon de V. S. y acreditado se lo por el bien tanto general del pas como particular de sus habitantes ya cuyo veneficio le vivera eternamte. reconocido. Juro lo necesario y dignandose admitir me lo este papal comun pr. no haber del Sellado, qe. corresponde.

VICENTE DE LA OSSA.

Angeles, Agosto 10, de 1842.

Sor Prefecto, del 2d Distrito.

Annento al superior decreto marginal que habia en la presente instancia. El terreno que pidio el solicitante si que es de la Mision de San Fernando y ahora—que lo he visto ni observe que hubiese bienes. El terreno que se mentiona esta distante de este lugar como cuatro leguas y el interesado tiene bienes para cubrirto y los requisitos necesarios. Es lo unico que puedo informar pare que V. S. resuelva lo conveniente.

ANTO. FR. CORONEL.

Augt. in 28, de 1843.

Sor Prefecto, del 2d Distrito.

Consecuente con el informe que V. S. sirvase pedirme en el marginal de Corte que consta en este espediente; digo que en el terreno que espresa el solicitante se halla un pedazo de tierra que ocupa este establecimte con labores de siembra cuando la Gentilidad asi lo requiere y otro que ocupa el Indigeno segregado de esta Mision llamado Jose Miguel con una pequena siembra, con perniso provisional del Exmo Sor Gobernador por lo que respeta a bienes de

campo se halla valdio y solo suelen bajar por tiempo algunos reses o bestias y en vista de lo espaesto V. S. obrara conforme halla por conveniente.

JOSE MA. VILLAR.

SAN FERNANDO, Eno. 29, de 1843.

Exmo Sor.

Mandados practicar los informes convenientes sobre la solicitud del terreno que solicita el neco. de este luguar Cno Vicente de la Ossa contiguo entre Cahuenga y Rancho conocido de los Verdugos resulta por el del Mayordomo de San Fernando que solo en anos esterites ocupa un pedazo de tierra en labores y otro que ocupa el Indigeno segregado de otha Mision Jose Migl. y por lo demas esta valdio; por lo que es de opinion esta prefectura que sujetandose el interesado a dejar a la Mision las tierras que ocupa cuando las necessita y no perjudicar a Jose Miguel en las que ocupa, puede consedersele con esta condicion y en razon de tener ya alla recibidos o aguerenciados sus bienco, ser vecino honrado y laborioso. Empero sin embargo de lo espuesto V. E. con mejor asierto se volvera lo que friese de sa superior agrado.

G. ARONELLO.

JOSE MA. AGNELLO,
Srio.

LOS ANGELES, Marzo 1, de 1842.

Concedido con las condiciones, qe. espresa la prefectura ya que se obligara.

MICHELTO'A.

ANGELES, Marzo 23, de 1843.

Vista peticion con que da principio este espediente el informe del Sor prefecto de este distrito el del Juez segundo de pay de esta Ciudad y el del administrador de San Fernando con todo lo demas que se tubo presente y ver convino de conformedad con las leyes y reglamentos de la materia declaro a Dr. Vicento de la Ossa dueno en propriedad del parage que se halla situado entre el Rancho de los Senores Verdugos, colindante por el E. con el Rancho de este nombre por el S. con las Gomerias de este Rumbo, por el N. con la Sierra y al Poniento con Cahuenga, en estencion de un sitio de ganado mayor quien no perjudicara en manera alguna al Indigena de la Mision de San Fernando llamado Jose Miguel que alli se halla establecido en el terreno que ocupa ne manor a sus herederos; tampoco en anos esteriles quiera hacer uso de las tierras en que sembraba. Librese el correspondiente despacho tomese razon en el libro respectivo y dirigase este espedte. a la Exma Junta Departamental para su aprobacion El Ex Y. Gobernador y Commdte General asi lo mando decreto y firmo de que doy fee.

MICHELT'A.

(For map, see original, page 13.)

campo se halla valdio y solo suelen bajar por tiempo algunos reses o bestias y en vista de lo espaesto V. S. obrara conforme halla por conveniente.

JOSE MA. VILLAR.

SAN FERNANDO, Eno. 29, de 1843.

Exmo Sor.

Mandados practicar los informes convenientes sobre la solicitud del terreno que solicita el neco. de este luguar Cno Vicente de la Ossa contiguo entre Cahuenga y Rancho conocido de los Verdugos resulta por el del Mayordomo de San Fernando que solo en anos esterites ocupa un pedazo de tierra en labores y otro que ocupa el Indigeno segregado de otha Mision Jose Migl. y por lo demas esta valdio; por lo que es de opinion esta prefectura que sujetandose el interesado a dejar a la Mision las tierras que ocupa cuando las necessita y no perjudicar a Jose Miguel en las que ocupa, puede consedersele con esta condicion y en razon de tener ya alla recibidos o aguerenciados sus bienco, ser vecino honrado y laborioso. Empero sin embargo de lo espuesto V. E. con mejor asierto se volvera lo que friese de sa superior agrado.

G. ARONELLO.

JOSE MA. AGNELLO,
Srio.

LOS ANGELES, Marzo 1, de 1842.

Concedido con las condiciones, qe. espresa la prefectura ya que se obligara.

MICHELTO'A.

ANGELES, Marzo 23, de 1843.

Vista peticion con que da principio este espediente el informe del Sor prefecto de este distrito el del Juez segundo de pay de esta Ciudad y el del administrador de San Fernando con todo lo demas que se tubo presente y ver convino de conformedad con las leyes y reglamentos de la materia declaro a Dr. Vicento de la Ossa dueno en propriedad del parage que se halla situado entre el Rancho de los Senores Verdugos, colindante por el E. con el Rancho de este nombre por el S. con las Gomerias de este Rumbo, por el N. con la Sierra y al Poniento con Cahuenga, en estencion de un sitio de ganado mayor quien no perjudicara en manera alguna al Indigena de la Mision de San Fernando llamado Jose Miguel que alli se halla establecido en el terreno que ocupa ne manor a sus herederos; tampoco en anos esteriles quiera hacer uso de las tierras en que sembraba. Librese el correspondiente despacho tomese razon en el libro respectivo y dirigase este espedte. a la Exma Junta Departamental para su aprobacion El Ex Y. Gobernador y Commdte General asi lo mando decreto y firmo de que doy fee.

MICHELT'A.

(For map, see original, page 13.)

Exma Asamblea Departam't Vicente de la Osa. Cno. Mejicano p'r nacimiento y vecino de esta Ciudad ante V. E. con el debido resperto, en la mejor forma y como mas haya lugar en derecho, represento y digo: Que habiendo obtenido p'r el Gobierno de este Departamento el titulo se propiedad en el terreno nombrado Providencia colindante con el Rancho con los Sreo Verdugos y con el de Cahuenga a cuatro leguas de distancia de esta Capital y como el espresado titulo en un parte es positiva al tiempo de concederme el repetido terreno me sugeta a la aprovacion de V. E. solicito de en superior autoridad el que se digne aprovarlo segun la voluntad del magistrado q'e lo estende Tambien suplico se sirva V. E. suprimir la ultima parte del 1o articulo del Documento citado pues me es del todo perjudicial en razon de impedirme q'e fomente el precioso ramo de agricultura y particularmente cuando la Mision de San Fernando lo mayor parte de los anos pierde sus sembrados en aquel lugar. Para ambos objetos debidamente acompano a V. E. el espediente respecfectivo suplicando le tome en consideracion la ante cedente solicitud que solo con el objecto de mantener mi numerosa familia hago p'a la presente rogando dispensarme este papel, p'r falto del sellado respectivo.

VICENTE DE LA OSSA.

ANGELES, Agt'o 29, de 1845.

ANGELES, Septiembre 3, de 1845.

Dado cuento en sesion de hoy con esta instancia a la H. Asamblea se mando pasar a la comision de terrenos Valdios.

PIO PICO,
Pres'dte.

AGUSTIN OLVERA,
Srio.

Sor:

La comision de terrenos valdios ha examinado con la detencion premia el presente expediente practicada sobre el parage nombrado la Providencia concedida al Sor Vicente de la Ossa por el Sup'r Gobo. Departamental y encontrando q'e esto concesion fue con arreglo a las leyes relativas pone a la déliberacion de V. E. las signientes proposiciones.

1a. Se aprueba la comision hecha a favor de Don Vicente de la Ossa del parage la Providencia adjudicada en propriedad el dia 23 de Marzo de 1843, de entera conformidad, con lo prevenido en la ley de 18 de Agosto de 1824, y el artt'o 5o. del reglam'to de 21 de Noviembre de 1828.

2a. Atendiendose a q'e el terreno de q'e se ha hecho donacion al Sor la Ossa es juram'to de un sitio de ganado mayor y q'e dentro de el tiene una parte el indigena Jose Miguel, se suprime la ultima parte de la primera condicion del titulo respectivo que priva el agraciado de estos con toda libertad de sus tierras de conformedad con su solicitud.

ANGELES, Octubre 3, de 1845.

(Nota.) Habiendo ocurrido diferencia sobre el antecedente dictamen despues de estar estendida entre los dos individuos q'e componen la Comision el q'e subscribe como uno de ellos insiste en el citado dictamen por ser de absoluta justicia y como tal lo hace valer como su voto particular.

Fcha ut supra,

NARCISO BODELLA.

ANGELES, Marzo 18, de 1846.

En sesion de este dia se aprobo por la Exma Asamblea el precedente dictamen bajo el concepto de las dos proposiciones se formo una sola y asi recayo su total aprobacion.

PIO PICO,
Presidente.
AGUSTIN OLVERA,
Srio.

OFFICE OF THE SURVEYOR-GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such now having in my office and under my charge and custody, a portion of the archives of the former Spanish, and Mexican Territory or Department of Upper California, do hereby certify that the fourteen preceding and hereunto annexed pages of tracing paper, numbered from one to fourteen inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents now on file and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal (not having a seal of office), at the City of San Francisco, this twenty-fifth day of October, 1851.

Fees $32 57.

S. D. KING,
Surveyor-General, California.

Filed in office, September 11th, 1852.

GEO. FISHER,
Secretary.

Minute of proceedings instituted upon the motion of the Citizen Vicente de la Ossa, in the matter of his petition for a tract of land between Cahuenga and the Rancho of Verdugos.

Translation—Exhibit B.

[L. S.] Honorable Prefect of the 2d District:

ANGELES, Jan. 27th, 1843.

I, Vicente de la Ossa, of this District, do most submissively and respectfully represent before your Honor, that I am unable any longer to endure the sufferings, damages,

In conformity with the laws and regula-

tions affecting the matter, let the 2d Justice of the Peace of this City report whether the tract, which the petitioner claims, belongs to any corporation, community, or individual, whether it falls within the 10 litoral leagues, or twenty from the frontier; whether the petitioner has animals to stock it with, and the necessary qualifications for his claim being entertained, together with whatever else may appear proper to throw light upon the matter; and this being concluded, let the papers be shown to the Steward of the Mission of San Fernando, in order that he may give his report concerning the interest of that community, and let the minute of proceedings be returned to this Prefecture for such further purposes as may be proper.

ARGUILLO.

JOSE F. C. ARGUELLO,
Secretary.

and losses, that I have sustained in my property, which consists of a limited number of stock, the sole result of many years of toil, and this on account of not owning a piece of land of my own to keep them in subjection; that I have found one in the neighborhood of this City, situate westwardly from the rancho of Verdugos, between the head waters of the Pueblo Stream and the place where corn has been planted on account of the Ex-Mission of San Fernando; I beseech your Honor to vouchsafe to grant it to me in fee for the purposes afore-mentioned. For although said Ex-Mission occupied it formerly with some stock, as being perhaps its property, said tract is now absolutely unoccupied, and the circumstances of my cattle and horses (the only stock to be seen on the premises), ranging on the premises in question, arises from the fact that I lived for the space of two years on the said rancho of Verdugos as joint tenant, by leave of the proprietor. My stock took their range as aforesaid on those premises, doubtless on account of their being near at hand, and also of there for using the margin of the river, and having good watering-places; the land of which I make mention is sufficiently small, as your Honor will see by the sketch which I duly inclose; for in its greatest breadth, it may have half a league, that is, at the longest boundary line running from south to north, and in length, taking a straight line from the said rancho of Verdugos to the end of the chain of hills that forms boundary at the last-mentioned point of the compass, it may have one league, little more or less; the other side, at the southward, has not the same length; the tract forming in itself an almost triangular figure, as represented by the said sketch; wherefore, I humbly request that, in consideration of the premises, you will be pleased to grant me this favor, which I solicit as of justice, and hope to obtain from the goodness of your Honor's heart, and your well-known zeal, as well for the general good of the country as for the

private welfare of its inhabitants, and I will forever remain grateful for such favor; I make the requisite oath, praying that you will admit this petition, written on common paper, there being none of the requisite stamp.

VICENTE DE LA OSSA.

ANGELES, Aug. 1, 1842.

Mr. Prefect of the 2d District:

In compliance with the superior decree noted on the margin of the foregoing petition, I report that I have knowledge that the land claimed by the petitioner is part of the lands of the Mission of San Fernando, and when I was there lately I did not observe there any stock; the said tract lies at a distance of some four leagues hence, and the petitioner has animals enough to stock it, and also possesses the other requisite qualifications. This is the only information I can give to aid your Honor in forming the determination that may be most proper.

ANTONIO F. CORONEL.

ANGELES, June 28, 1843.

Mr. Prefect of the 2d District:

In obedience to your Honor's request that I should make report as per marginal note on the petition in this matter, I say that within the tract solicited by the petitioner, there is a piece of land used by this Establishment for planting, when it becomes necessary in dry seasons, and another piece occupied by an Indian, separated from this Mission, named José Miguel, who cultivates there a little field under a provisional license of his Excellency the Governor; as regards stock, the tract in question is unoccupied; some few cattle or horses habitually coming down there, but only for a time; and in view of the foregoing, your Honor will do what may appear most proper.

JOSE MARIA VILLAR.

SAN FERNANDO, January 29, 1843.

Most Excellent Sir:

The proper reports having been ordered to be made concerning the petition of the Citizen Vicente de la Ossa, a resident of this place, for a tract of land lying between Cahuenga and the well-known rancho of Berdugos, it appears from that of the Steward of the Mission of San Fernando that he only devotes a piece of it to cultivation in dry seasons; that another piece of it is occupied by José Miguel, an Indian, separated from said Mission, and that the remainder is unoccupied; wherefore, this Prefecture opines, that on the petitioner undertaking to leave to the Mission the lands which it occupies, whenever it may want them, and not prejudice José Miguel in those occupied by him, the tract in question may be granted to him, subject

to this condition, on account of his stock being already subjected or accustomed to the range of the place, as also of his good character and laborious habits; nevertheless, and the foregoing notwithstanding, your Excellency will more advisedly take such determination as may suit your superior pleasure.

S. ARGUELLO.
JOSE N. ARGUELLO,
Secretary.

ANGELES, March 1st, 1843.

Granted, under the conditions mentioned by the Prefecture, and to which the petitioner shall bind himself.

MICHELT'A.

ANGELES, March 23d, 1843.

In view of the petition with which these proceedings commence, the report of the Hon. Prefect of this District, that of the 2d Justice of the Peace of this City, and that of the Administrator of San Fernando, with everything else that was brought forward, and which it was proper to consider in conformity with the laws and regulations upon the subject, I declare D. Vicente de la Ossa owner in fee of the tract lying between the Rancho of Mess. Verdugos, bounded eastwardly by the rancho of that name, southwardly by the hills on that side, northwardly by the mountains, and westwardly by Cahuenga, containing one range for neat cattle. The grantee shall not in any manner prejudice the Indian of San Fernando Mission, named Jose Miguel, who is established there, nor his heirs, neither shall he prevent the said Mission whenever the latter, in dry seasons, may wish to use the lands which it used to sow. Let the proper grant issue, and be recorded in the proper book, and let this minute of proceedings be forwarded to the most excellent Departmental Assembly for its approval. His Excellency the Governor and General Commandant, has so ordered, decreed, and subscribed. Witness my hand.

MICHELT'A.

Most Excellent Departmental Assembly:

I, Vicente de la Ossa, a native Mexican citizen, and a resident of this city, before your excellent body, with due respect, in due form and claiming all benefit of the law, do represent and say, that I have obtained from the government of this city, a grant in fee of the tract called Providencia, bounded by the Rancho of Mess. Verdugos and that of Cahuenga, four leagues distant from this capital, and as the said grant on its part is absolute, at the time of ceding to me the said tract, it subjects me to the approbation of your excellent body, and I request your supreme authority to vouchsafe to approve it according to the will of the magistrate who made it. I also request your excellent body to be pleased to suppress the last part of the first article of the said document, because it is in every way prejudicial to me, since it prevents me from fostering that rich branch agriculture,

and particularly since the Mission of San Fernando in most seasons loses the crops it sows at that place. For both objects, I duly forward to your excellent body the minutes of the proceedings relating to the matter, begging them to take the foregoing petition under consideration, as I have no other object in presenting the same than to support my large family. Vouchsafe to excuse the paper on which this is written, as there is none of the proper stamp.

VICENTE DE LA OSSA.

ANGELES, August 29, 1845.

ANGELES, Sept. 3d, 1845.

Presented this petition to the Honorable Assembly in its session of to-day: Ordered, that it be referred to the Committe on Waste Lands.

PIO PICO,
President.
AUGUSTIN OLVERA,
Secretary.

Sir:

The Committee on Waste Lands has examined, after the previous delay, the minutes of proceedings concerning the tract called La Providencia, granted to the Citizen Vicente de la Ossa by the Superior Departmental Assembly, and finding that this grant was in accordance with the laws relating to the subject, reports for the deliberation of your excellent body the following resolutions:

1. Approved the grant made in favor of Don Vicente de la Osa of the tract la Providencia, adjudicated in fee the 23d day of March, 1843, in entire conformity with the provisions of the law of August 18, 1824, and art. 5th of the regulation of November 21, 1828.

2. Considering that the tract granted to Mr. de la Osa consists of only one range for neat cattle, and that within it the Indian Jose Miguel holds a piece of land, suppressed the latter part of the first condition of the grant in question, which prevents the grantee from using his lands with entire liberty according to his petition.

ANGELES, October 3d, 1845.

Note: there having occurred a difference concerning the foregoing opinion after its being written down between the two individuals who compose the committee, the undersigned as one of them insists upon the said opinion being in strict accordance with justice, and as such he brings it forward as his own particular note, same date.

NARCISO BOTELLO.

ANGELES, March 18, 1846.

In session of this day the most Excellent Assembly approved the foregoing opinion, with the understanding that both resolutions were merged into one, and thus its entire approval devolved.

PIO PICO,
President.
AUGUSTIN OLVERA,
Secretary.

Filed in office, September 11, 1852.

GEORGE FISHER,
Secretary.

Documents marked No. 1 and 2, annexed to deposition of A. F. Coronel, before Commissioner Hiland Hall.

En la Ciudad de los Angeles de la Alta California á los treinta dias del Meo de Octubre, de mil ochocientos cuarenta y nueve Ante mi Juan Sepulveda Juez 2o de esta mis ma Ciudad los testigos instrumentales que al fin se nombrarán y los de mi asistencia con quienes autuo á falta de escribano que no lo hay segun dro: parecio presente Don Vicente de la Osa á quien doy fé conosco y dijo: que por si y á nombre de sus herederos y sucesores y de quien de ellos hubriese tit'o voy y causa en cualquiera manera vende y da en venta real y enagenacion perpetua por juro de heredad para siempre jamas á los Senores Alejandro Mellus y compania su rancho llamado la providencia cuya area de terreno se compone de un sitio de Ganado Mayor y Caballada segun consta de los titl'os del espresado rancho, de los cuales hace formal fraspaso á los compradores en la cantidad de Un mil quinientos pesos que tiene recibidos en moneda de plata á entera satisfaccion declarando el Otorgante que el espresado Rancho no lo tiene vendido ni enagenado y esta libre de tributo, memoria capellaria, vinculo fianza y otro cualquiera gravamen real, perpetuo, temporal especial general, tacito y espreso y como tal se la vende en los uma un mil y quinientos pesos que confiesa haberlos recibido á su entera voluntad que por tanto renuncia la esepcion que pudiera oponerse por no parecer de presente su entrega con la ley 9. tit'lo 1o. Part'o 5a y formalisa á favor de los compradores á mas firme y eficas Carta de pago que á su seguridad condusca, asi mismo declara, que el justo precio y verdudero valor del referido rancho del mencionado rancho son los Un mil quinientos pesos que no vale mas ni allo quien tanto lo hubiera dado por el y que si mas vale ó valor pueda del exeso de poca o mucha cantidad hace á favor de los compradores y de sus heredoros y sucesores gracia y donacion pura mera perfecta y irrevocable en sanidad con insinuacion y demas firmesas ley ales: renuncia la ley 2 tit'lo P libro 10 N. R. que trata de los contratos de venta, trueques y otros en que hay lecion en mas ó menos de la mitad del justo precio y los cuatro anos que prefinen para pedir su recision o suplemento á su justo valor los da por pasados como se efectivamente lo estubieran y desde hoy en adelante se desapodera, desiste quita y aparta y á sus herederos y sucesores del dominio y propiedad y posesion tit'o voz recurso y otro cualquiera otro: que les competa: al enunciado Rancho; lo se de renuncia y traspasa con las acciones reales y personales, utiles, unicas, directas y efectivas á los compradores para que lo posean, gozen, combian enagenen y dispongan de el como de cosa suya

adquirida con legitimo y justo tit'lo Les confiere poder irrevocable con libre, franca y general administracion y se constituye procurador actor en su propria causa, para que su autoridad o judicialmente entren y se apoderen del relationado Rancho y de el tomen y prendan la real tenencia y posecion que por otro, les compete, y para que no necisiten tomarlo me pidé les de copia autorizada de la presente escritura con la cual sin otro acto de aprencion ha de ser visto haberlo tomado, aprendido y transferido se les en legal forma. Ya la observancia de todo lo referido en esta. Esta escritura obliga el Otorgante sus bienes habidos y por haber: renuncia las leyes de su favor y defensa con la general de dro: en forma y les confiere amplio poder á los S'res Jueces que de este asunto deban conocer conforme á dro para que le apremian á su complimiento como por sentencia definitiva de Juez competente consentida y pasada en autoridad de cosa juzgada que por tal lo recibe y lo firmo con migo y testigos de asistencia siendo instrumento los ciudadanos Tomas A. Sanchez, Manuel Feliz y Juan Temple presentes y vecinos que tambien firmaron doy fee.

JUAN SEPULVEDA,
VICENTE DE LA OSSA,
Ynst't TOMAS A. SANCHEZ,
Ynst't MANUEL FELIZ,
Ynst't JUAN TEMPLE,
Ass'a JESUS GIRADO,
Ass'a RAMON HERRERAS.

Concuerda con su Original á que me remito de donde fuo fielmente sacado y corregido hoy dia de su Otorgamiento en estas dos fojas del papel comun por no usarse del sellado y lo autorise con testigos de Asistencia on la forma ordinaria de que doy fee.

En testimonio de verdad.

JUAN SEPULV'A,
Ass'a: JESUS GUIRADO,
Ass'a: RAMON HERRERAS.

Titulo y Posecion que se le dio á Don Vicente de la Ossa; De un terreno para Rancho. Ano de 1843.

Manuel Micheltoreno Gobernador Commandante General e Inspector de Ambao Californias:

[SEAL.] Por cuanto el Ciudadano Vicente de la Ossa ha pretendido para su beneficio personal y el de su familia el paraje que se halla situado entre el Rancho de los Sres Berdugos colindante por el Sur con las lomerias de este Rumbo, por el Norte con la Sierra y al Poniente con Cahuenga; practicados previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me

son conferidas á Nombre de la Nacion Mejicana he venido en concederle el terreno mencionado declarandole la propriedad de el por las presentes letras; sujetandose á la aprobacion de la Exma Junta Departamental y bajo las condiciones signientes.

1a. No perjudicará en manera alguna al Indigena de la Mision de San Fernando llamado Jose Miguel que alli se halla establecido en el terreno que ocupa, ni á sus heredores; tampoco impedira á la referida mision cuando esta en anos esteriles quiera hacer uso de las tierras en que sembraba.

2a. Podra sercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutara libre y esclusivamente destinandolo al uso á cultivo que mas le acomode pero dentro de nu ano fabricara casa y estara habitada.

3a. Solicitara del Juez respectivo que le de la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mojoneras algunos arboles frutales o silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de un sitio de ganado mayor segun esplica el diseno respectivo que corre en el espediente.

5a. Si contraviniese á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero el presente titulo se tome razon de al en el libro a que corresponda, y se entregne al interesado para su resguardo y demas fines.

Dado en la Ciudad de Los Angeles a viente y tres de Marzo de Mil ocho cientos cuarenta y tres.

MAN'L MICHELT'A.
FRANC'O ARCE,
S'rio Jnto.

Queda tomada razon de este Despacho en el libro respectivo a fe d 1a v.

ARCES.

El Exmo Sor Gobernador ha dispuesto se tome razon de esta consecion en la Prefectura de este segundo Distrito.

ARCES.

Queda tomada razon de este superior Despacho en el libro de Asientos Nevado en esta Prefectura de este segundo distrito a $ 10, vuetta.

JOSE R. ARGUELLO,
S'rio.

Ang'l, Mayo 4 de 1843.

En la ciudad de los Angeles del departamento de las Californias a los cuatro dias del mez de Mayo de mil ocho cientos cuarenta y tres annente a la solicitud verbal que hizo Dn. Vicente de la Osa a fin de que se le de la posecion del paraje situado entre el Rancho de los Senores Berdugos, concedida por el Superior Gobierno Departamental

como consta del titulo que presento y halla en poder del mismo la Ossa: pasese por mi y los testigos de asistencia y procedase a dar la posecion indicada con arreglo al citado titulo, cuyo titulo fue espedido en veinte y tres de Marzo de este ano. Asi yo Antonio Franco Coronel Juez 2o de Paz de esta referida Ciudad y su demarcacion decrete, mande y firme con los de asistencia segun Dro.

ANTONIO F. CORONEL.
Assistencia, NARCISSO BOTELLA,
Assa., LUIS JORDAN.

En la misma fecha yo el Juez que subscribe pase oficio a los Sres colindantes manifestandoles el objeto a que me dirigo al punto situado entre el Rancho de los Senores Berdugos pues iba a remidirlo y poner en posecion al S. Dn Vicente de la Ossa, de los Sres colindantes que lo fue Dn. Julio Verdugo y el padre de San Fernando, ninguno manifesto ecepcion al citarlos lo que asiento por diligencia lo que autorise y firme con los de Asistencia Segun Dro.

ANTONIO F. CORONEL.
Assistencia, NARCISO BOTELLO,
Assa., LUIS JORDAN.

En seguida y hallandome en el terreno que silicita y se le concedio a Dn. Vicente de la Ossa, nombre dos Oficiales Cordeleros los que por no saber escribir se omiten sus nombres los que aceptaron bajo del juramento respectivo por el que afrecieron desempenar fielmente su encargo lo que autorise y firme con los de Asistencia Segun Dro.

ANTONIO F. CORONEL.
Assistencia, NARCISSO BOTELLO,
Assistencia, LUIS JORDAN.

En el mismo dia mes y ano y estando en el sitio que esta situado entre el Rancho de los Senores Verdugos y San Fernando a efeeto de verificar las remedidas y posecion que corresponde a Dn. Vicente de la Ossa previos todas los requisitos de ley y estando ante mi los testigos de Asistencia y los Oficiales Cordeleros, hize medir un cordel constante de Cien Varas el cual fue examinado y reconocido por mi y mandando atar en sus extremos unos Saucos de madera previa observacion se iba a tirar el cordel, cuando Dn. Julio Berdugo reconvino de que aquel terreno era suyo y lo le pedi sus documentos mas como no les manifesto dije procedia a las medidas. Despues se recibio una carta del Padre Blas Orvas, en que reclamaba el terreno por hacerle falta para las siembras a la mision de San Fernando; pero habiendole advertino que el titulo de la Ossa espresaba que no perdicaria a las siembras de la mision quedo conforme, entonces setiro el primer Cordel desde la loma donde descabesa el Rio del Pueblo con direccion al Norte y se contaron y midieron cinco mil varas que remataron en un encina que se marco por mojoneras; de este punto se tiro el Cordel rumbo Oeste y se midieron y contaron cinco mil

varas que remataron en otra encina que se marco por mojonera de haya se tiro el Cordal rumbo Sur y se midieron y contaron cinco mil varas que remataron en una loma alta que esta junto de una Canada donde se mando poner una mojonera, de este lugar se tiro el Cordel rumbo Oriente y se medieron y contaron cinco mil varas que remataron en el lugar adonde se empesaron las medidas con lo que se conclyo el acto, quedando el indio en el pedazo que ocupa: Segun ordena la superioridad, cuyo indio se llama Jose Miguel Triunfo lo que autorise y firme con los de Asistencia Segun Dro.

ANTONIO F. CORONEL.
Assistencia, NARCISO BOTELLO,
Assistencia, LUIS JORDAN.

Entre renglones y se medieron y contraron vale.

Desele testimonio a las partes de las presentes diligencias para su resguardo.

ANTONIO F. CORONEL.
Assistencia, NARCISSO BOTELLO,
Assistencia, LUIS JORDAN.

En el dia cinco del presente se dio el testimonio respectivo. Concuerda con su original a que me remito del cual esta fielmente sacada corregida y confrontada en estas tres fojas de papel comun por falta del Sellado respectivo, cuyas tres fojas son fuera del titulo que va a la cabeza.

En Testimonia de Verdad.

ANTONIO F. CORONEL.
Assa., JOSE T. O. DONOJA,
Assa., JULIAN CHAVES.

Pio Pico Vocal decano de la Asamblea Departamental y Gobernador provisional de las Californias.

[SEAL.] La Exma Asamblea Departamental en sesion del dia diez y ocho de Marzo tuvo a bien acordar lo signiente.

Se aprueba la concesion hecha a favor de D. Vicente de la Ossa del paraje de Providencia adjudicado en propriedad el dia Veinte y tres de Marzo de Mil ocho cientos cuarenta y tres de entera conformedad con lo prevenido en la ley de 18 de Agosto de 1824, y el Artlo. 5o del reglamento de 21, de Noviembre, de 1828, y atendiendose a que el terreno de que se ha hecho donacion al Sor la Ossa es puramente de un Sitio de ganado mayor, y que dentro de el tiene una parte el Indigena Jose Miguel se suprime la ultima parte de la primera condicion del titulo respectivo que prive al agraciado de usar con todar libertad de sus tierras, de conformidad con su solicitud.

Y para resguardo de la parte de Dn. Vicente de la Osa lo hago asi saber.

Dado en la Ciudad de Los Angeles en este papel comun por no haber del Sellado a veinte de Marzo de Mil ochocientos cuarenta y Seis.

PIO PICO.
JOSE MATIAS MORENO,
Srio. Into.

ANGELES, Mayo 4, de 1846.

Juan Sepulveda, Juez 2o, de esta Ciudad y su jurisdiccion.

Certificio en cuanto puedo, debo y el dro me permete; que aun presencia ha pasado Dn. Vicente de la Ossa a los S. S. Alejandro Mellus y Compania los presentes titulos por Venta que hizo el primero a los segundos del rancho ellos mismo espresan por la Cantidad de un Mil quinientos pesos, que recibio la Ossa en moneda de plata a su entera satisfaccion segun consta de escribano publico otorgado en esta misma fha. Y para constancia puse el presente Certificado en esta Ciudad de Los Angeles a los trienta dias del Mes de Octbre, de mil ocho cientos cuarenta y nueve y lo autoriso con testigos de Asistencia en la forma Ordinaria doy fee.

JUAN SEPULVEDA,
VCTE. DE LA OSSA.

Assa., JESUS GUIRADO,
Assa., JESUS DIAS.

Filed in office, September 22d, 1852.

GEO. FISHER,
Secretary.

Translation. Exhibit D.

Manuel Micheltorena, Governor-General, Commandant and Inspector of both Californias.

[Governmental Seal.]

Whereas, the citizen Vicente de la Ossa has claimed for his own benefit and that of his family the tract situated between the Rancho of Mess. Berdugos, bounded at the south by the hills that lie on this side, at the north by the mountains, and at the west by Cahuenga, the proper proceedings and investigations having previously been instituted according to the tenor of the laws and regulations by virtue of the powers conferred upon me in the name of the Mexican nation, I do grant unto him the said tract, declaring it to be his property by these present letters, subject to the approval of the Most Excellent Departmental Assembly, and under the following conditions:

1. He shall in no manner whatever prejudice the Indian of the Mission of San Fernando, named Jose Miguel, who occupies there a piece of ground upon which he is established, nor his heirs; neither shall he interpose any obstacle in case the said Mission

should desire in dry seasons to make use of the lands where its sowings were usually made.

2. He may fence it in without prejudice to the cross-roads, highways, and rights of way; he shall enjoy it freely and exclusively, devoting it to such use or culture as best may suit him, but within one year he shall erect a house, which shall be dwelt in.

3. He shall solicit the judge who has jurisdiction to give him juridical possession by virtue of this deed. Such judge shall mark out the boundaries, on whose lines shall be placed, besides the landmarks, some fruit trees or serviceable forest trees.

4. The land hereby granted consists of one range (sitio) for neat cattle, as shown by the sketch of such land annexed to the Minutes of preliminary proceedings.

5. In case of non-compliance with these conditions, he shall lose his right to the land, and it may be denounced by another. Wherefore I order that this title-deed, being held as firm and valid, be recorded in the proper book, and delivered to the party in interest for his protection, and other purposes.

Given at the City of Los Angeles, March twenty-third, one thousand eight hundred and forty-three.

MANUEL MICHELTORENA.
FRANCISCO ARCE,
Sec. ad Interim.

This Patent is recorded in the proper book, pt. etc.

ARCE.

His Excellency the Governor has ordered that this grant be recorded at the Prefecture of this second district.

ARCE.

This superior Patent is recorded in the book of grants kept at this Prefecture, p. 1st.

JOSE M. ARGUELLO,
Secretary.

ANGELES, May 4, 1846.

In the City of Los Angeles, in the Department of the Californias, on the fourth day of the month of May, one thousand eight hundred and forty-three, in compliance with the verbal request made by D. Vicente de la Ossa, to the effect that possession of the tract situated between the Rancho of Mess. Berdugos, granted by the superior government of the Department, as appears by the title which he presented, and which is in the hands of the same La Ossa, ordered, that I repair with my attesting witnesses, and proceed to give said possession, agreeably to the aforesaid title-deed, which deed was made the twenty-third of March of this year. I, Antonio Franco. Coronel, 2d Justice of the Peace of this said city and district, have so decreed, ordered, and subscribed, with the attesting witnesses, according to law.

ANTONIO F. CORONEL.
Attest. NARCISSO BOTELLO,
Attest. LUIS JORDAN.

On the same date, I, the undersigned Judge, notified the owners of neighboring lands, stating the object of my going to the premises between the Rancho of the Mess. Berdugos, viz.: that I was going to remeasure the same, and give possession thereof to Mr. D. Vicente de la Ossa. Neither of such neighbors, who were Mr. Don Julio Berdugo and the Priest of San Fernando, made any objections upon being summoned, whereof I take note in the minutes, certifying and subscribing the same, with the attesting witnesses, according to law.

ANTONIO F. CORONEL.
Attest. NARCISSO BOTELLO,
Attest. LUIS JORDAN.

Immediately afterwards, and I then being upon the tract solicited by and granted unto Don Vicente de la Ossa, I appointed two official line-bearers, whose names are omitted, because they do not know how to write. They accepted their appointment, duly undertaking by their oath of office to perform their duties faithfully, which I certified and subscribed, with the attesting witnesses, according to law.

ANTONIO F. CORONEL.
Attest. NARCISSO BOTELLO,
Attest. LUIS JORDAN.

On the same day, month, and year, at the premises situated between the rancho of Messrs. Berdugo and San Fernando, for the purpose of making the admeasurement and delivery of possession to which Don Vicente de la Ossa is entitled, all the requisites of the law being complied with, and having in my presence the attesting witnesses and official line-bearers, I caused to be measured a line consisting of one hundred varas, which was examined and verified by me, and causing wooden poles to be fastened to the extremities, we observed the course and were about to run the line, when D. Julio Berdugo alleged that this land was his own; I asked him for his papers, but as he did not show them, I said that I would proceed to the measurement. Afterwards was received a letter from Rev. Brother Blas Ordaz, wherein he claimed the tract as being necessary to him for the crops of the mission of San Fernando, but having called his attention to the fact that the grant of La Ossa stated that he was not to prejudice the sowing of the mission, he was satisfied. The first line was then drawn from the hill, where the river of the Pueblo heads northwardly, and there were counted and measured five thousand varas, which ended at an oak tree, which was marked for a corner. Thence the line was run on a westerly course, and there were measured and counted five thousand varas, which terminated at another oak marked for a corner. Thence the line was run south, and there were measured and counted five thousand varas, which terminated at a high hill near a valley, where a corner-mark was ordered

to be placed. From this place the line was run eastwardly, and there were measured and counted five thousand varas, which terminated at the place where the measurement was commenced. Wherewith the proceedings ended, the Indian remaining on the piece which he occupies according to superior order. This Indian is called Jose Miguel Triunfo. All which I certify and subscribe, with the attesting witnesses, according to law.

ANTONIO F. CORONEL.

Attest. NARCISSO BOTELLO,
Attest. LUIS JORDAN.

Interlined the words "se midieron y contaron," which are part of the text.

Let a certified copy of the present minutes be given to the interested party, for his protection.

ANTONIO F. CORONEL.

Attest. NARCISSO BOTELLO,
Attest. LUIS JORDAN.

On the 5th day of this month the requisite certificate was given. A true copy of the original, to which I refer, and from which this is taken, corrected, and collated, in these three sheets of common paper, for want of the proper stamp, which three sheets do not include the grant at the head.

In testimony of truth,

ANTO. F. CORONEL.

Attest. JOSE S. O. DONOGO,
Attest. JULIAN CHAVES.

[L. S.] PIO PICO,
Senior Member of the Departmental Assembly and Provisional Governor of the Californias.

The most Excellent Departmental Assembly, in session of the 18th day of March, saw fit to exact the following.

We approve the grant made in favor of Don Vicente de la Ossa of the tract la Providencia, adjudicated in fee, on the twenty-third day of March, one thousand eight hundred and forty-three, in entire conformity with the provisions of the law of August 18, 1824, and Act 5 of the Regulations of November 21st, 1828, and considering that the tract granted to Mr. de la Ossa consists merely of one range for neat cattle; and that the Indian, Jose Miguel, occupies a portion within the same, we suppress the latter part of the first condition of the respective title, which prevents the grantee from using his lands with all freedom in conformity with his petition.

And for the protection of Don Vicente de la Osa, I make the same known. Given at the City of Los Angeles on this common paper,

there being none stamped, on the twentieth of March, one thousand eight hundred and forty-six.

PIO PICO.

JOSE MATIAS MORENO,
Secretary, *ad interim.*

ANGELES, May 4, 1846.

Juan Sepulveda, 2d Judge of this city and its jurisdiction.

I certify insomuch as I can, may, and am permitted by the law, that in my presence D. Vicente de la Ossa transferred to Messrs. Alexander Mellus & Co., the foregoing title-deeds, in consequence of a sale of the rancho by the former to the latter, for the consideration, as themselves state, of one thousand five hundred dollars, which La Osa received in silver money to his entire satisfaction, as appears by a public instrument executed on this same date, and in testimony of the same I have signed the present certificate, in this City of Los Angeles, on the thirtieth day of the month of October, one thousand eight hundred and forty-nine, and I certify the same with attesting witnesses in the usual form. Witness my hand.

JUAN SEPULVEDA.
VICTE. DE LA OSSA.

Attest. JESUS GUIRADO,
Attest. JESUS DIAS.

Filed in office September 11, 1852.

GEO. FISHER,
Secretary.

Translation of Deed.

At the City of Los Angeles, Upper California, on the thirtieth day of the month of October, one thousand eight hundred and forty nine, before me Juan Supulveda, second Judge of this same city, the instrumental witnesses named at the end and my attesting witnesses, by whose aid I act according to law in the absence of my Notary, there being none, appeared Don Vicente de la Osa, whom I certify to be known to me, and said that for himself and in the name of his heirs and successors, and of such of them as may have title, voice and cause, in any manner, sells and gives in actual sale and perpetual alienation by tenor of inheritance for evermore to Messrs. Alexander Mellus and Co., his rancho called la Providencia, which extent of land consists of one range (sitio) for neat cattle and horses, as appears by the title deeds of said Rancho, whereof he makes formal transfer to the purchasers for the sum of one thousand five hundred dollars, which he has received in silver coin to his entire satisfaction, the grantor declaring, that he has neither sold nor hypothecated the said Rancho, that it is free from taxes, accounts clerical, settlement, entail bond, and other actual, perpetual, temporary, and special, general, tacit, or expressed incumbrances, and as such he sells it to

them for one thousand five hundred dollars, which he acknowledges to have received entirely by his own will. Wherefore, he renounces the exception which might be interposed on account of the delivery not taking place at the present time, under law 9, title 1st, part 5th, and he executes in favor of the purchasers the most valid and efficacious acquittance, which may promote his security. He likewise declares, that the just price and true value of the said rancho are one thousand five hundred dollars, that it is not worth any more, that he could not find any one who would have given him so much, and if it is or may be worth more he makes final, absolute, perfect and irrevocable gift and donation of the excess, be its amount small or great, to the purchasers, their heirs and successors, in the full exercise of his faculties, under judicial exhibitions and other legal sanctions; he renounces the benefit of law 2, title 1, Book 1, No. 52, which treats of contracts of sale, barter, and other transactions, where damages are incurred for more or less than the one-half of the just price, and as to the four years limited for claiming cancelment or supplemental payment of the just value, he allows them to have expired in the same way as if they actually had, and henceforward he aliens, abandons, and quitclaims, and releases for himself and his heirs and successors, the ownership, property, possession, title, claim, recourse, and other right whatever, which they may have to said rancho; he renounces and sets over the same, together with all actions real and personal, pecuniary, mixed, direct and executive, to the purchasers, that they may possess, enjoy, exchange, alien, and dispose of the same, as of a thing belonging to them, acquired with legitimate and just title. He confers upon them irrevocable power, with free, unqualified and general authority to act, constituting himself attorney plaintiff in his own cause, to the effect that authoritatively or judicially, they may enter into and take possession of the said rancho, and may seize and take the actual occupation and possession which belongs to them by law, and in order to avoid the necessity of actual entry and seizure, I am requested to give them a certified copy of the present writing, with which, without any other act of seizure, they are to be considered as having taken, seized, and received transfer of the same in legal form; and to the observance of all the things set down in this deed, the grantor binds his property, present and future; he renounces all laws in his favor and defence, and generally as in due form all the provisions of the law, and he confers ample power on the Honorable Judge who may take cognizance of this matter, that they may enforce his compliance as if in virtue of a final decree of a competent Judge, passed and submitted to in an adjudicated matter, confirmed as such and subscribed before me, and my official witnesses. The instrumental witnesses are the citizens Tomas A. Sanchez, Manuel Felis, and John Temple, residents and present, who likewise subscribed, and I certify their signatures. Juan Sepulveda, Vicente de la Osa. Instrumentals, Tomas A. Sanchez,

Inst. Manuel Felis, Inst. Juan Temple, official Jesus Guirado, official Ramon Herreras.

A true copy of the original to which I refer, from which it was faithfully taken and corrected on this day of its execution on these two sheets of common paper, in the absence of the stamped. Which I certify with my official witnesses, in the usual form I attest.

In testimony of truth,

JUAN SEPULVEDA.

Attest. RAMON HERRERAS,

Attest. JESUS GUIRADO.

Filed in office September 11th, 1852.

GEORGE FISHER,
Secretary.

DAVID W. ALEXANDER & FRANCIS MELLUS
v.
THE UNITED STATES.

Opinion.

The papers on file in this case show that the tract of land claimed by the claimants was originally granted to one Vicente de la Ossa, by Governor Micheltorena, on the 23d day of March, A. D. 1843—which grant is proved to be genuine. It also appears, and is in proof, that said grant was duly approved by the Departmental Assembly, and that juridical possession was taken by the original grantee. It is also in proof, that the said Vicente de la Ossa conveyed all his interest to the said tract of land to the claimants in this case. It is proved by the deposition of Hugo Reid, taken in this case, that Vicente de la Ossa occupied the land granted to him immediately after the date of his grant, by building a house, living in it, and by cultivating the land, which, in the opinion of this Board, was a substantial compliance with the conditions of the law. The description of the tract granted is made sufficiently clear by the officer who made the measurement and gave the juridical possession, and which is rendered more definite by the map filed with the papers and made evidence in the case; with the aid of the papers on file, we are of the opinion that the officer will be able to identify the land granted; the claimants are therefore entitled to confirmation.

Filed in office October 18th, 1853.

GEO. FISHER,
Secretary.

DAVID W. ALEXANDER & FRANCIS MELLUS
v.
THE UNITED STATES.

Decree.

In this case, on hearing the proof and allegations, it is adjudged

by the Commission, that the claim of the said petitioners is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made, are known by the name of Providencia, and are bounded and described as follows, to wit: commencing at the southeast corner of said premises, at a hill where the River Pueblo heads, and running thence northwardly to an oak tree, which is marked for a corner, five thousand varas; thence running west five thousand varas to another oak tree, which is marked for a corner; thence running south five thousand varas to a high hill near a valley; thence running east five thousand varas to the place of beginning—containing in all one square league. Reference for further description to be had to a map, which is made a part of document marked Exhibit "A," and filed in this case. It is understood that this decree in no way prejudices the rights of the Indian named Jose Miguel, who occupies a piece of ground within the boundaries above described.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office October 18th, 1853.

GEORGE FISHER,
Secretary.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, Secretary to the Board of Commissioners to Ascertain and Settle the Private Land Claims in the State of California, do hereby certify the foregoing forty-six pages, numbered from 1 to 46, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in Case No. 338, on the docket of the said Board, wherein David W. Alexander and Francis Mellus are the claimants, against the United States, for the place known by the name of "Providencia."

In testimony whereof I hereunto set my hand, and affix my private seal (not having a seal of office), at San Francisco, California, this fourth day of August, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

[PRIVATE SEAL.]

GEO. FISHER,
Secretary.

United States District Court, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, November 30th, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify

that the foregoing 47 pages, numbered from 1 to 47, both inclusive, contain a full, true, and correct copy of Transcript No. 338, filed in this office, wherein Alexander and Mellus are appellees, and the United States are appellants, for "Providencia."

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Los Angeles, California, this [SEAL.] thirtieth day of November, A.D. 1855, and of the Independence of the United States of America the eightieth.

C. E. CARR,
Clerk.

District Court of the United States, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, Nov. 30th, 1855.

ALEXANDER & MELLUS, Appellees,
v.
THE UNITED STATES, Appellant.
} Docket, No. 30. Transcript, No. 338.

Be it remembered that in the above-entitled cause on appeal to the District Court of the United States for the Southern District of California in the United States of America, from the decision of the United States Land Commissioners, to ascertain and settle private land claims in California,

The following proceedings were had, to wit:

Transcript from the Board of Commissioners in said case, No. 338, on the Docket of said Board, filed and marked No. 30 on the Docket of this Court.

(Vide page 1.)

Notice of intention to prosecute appeal by the Attorney-General of the United States, filed December 5th, 1854.

(Vide page 3.)

Upon which notice the following subsequent proceedings were had in their chronological order, to wit:

Petition for review by the United States District Attorney for the Southern District of California, filed December 21st, 1854, and served on the appellee by the United States Marshal, on the 2d day of March, A.D. 1855.

(Vide page 3.)

Answer to petition for review filed.

(Vide page 8.)

Order of Court, that either may take further testimony.

(Vide page 11.)

Stipulation filed in this cause by the counsel for the respective parties.

(Vide page 11.)

Testimony of Henry Dalton, filed.

(Vide page 12.)

Testimony of Vicente de la Ossa, filed.

(Vide page 12.)

Cause submitted for final adjudication.

(Vide page 14.)

Opinion delivered by the Hon. Isaac S. K. Ogier, decree entered confirming the claim.

(Vide page 15.)

Order of Court granting appeal to the Supreme Court of the United States.

(Vide page 16.)

Notice of Appeal by Attorney-General.

Office of the Attorney-General of the United States.

Washington, 26th October, 1854.

ALEXANDER & MELLUS
v.
THE UNITED STATES.

You will please take notice, that in the above case decided by the Commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 26th day of July, 1854, the appeal in the District Court of the United States for the Southern District of California, will be prosecuted by the United States.

C. CUSHING,
Attorney-General.

Filed December 5th, 1854.

C. E. CARR,
Clerk.

In the District Court of the United States for the Southern District of California, Los Angeles County.

DAVID W. ALEXANDER and
FRANCIS MELLUS
ads.
THE UNITED STATES.
No. 338.

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States, for the Southern District of California.

The petition of Pacificus Ord (of Monterey County), attorney of

the United States, for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit: on or about the 11th day of September, A. D. 1852, David W. Alexander and Francis Mellus, presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called "Providencia," containing one league of land, in the words and figures following, to wit: "The petition of David W. Alexander and Francis Mellus, respectfully show, that they are the claimants of one league of land, more or less, situated between the Rancho, formerly known as the Rancho of Mess. Berdugos, on the south by the hills that lie on this side; at the north, by the mountains, and at the west, by Cahuenga; reference being had for a more particular description of the said lands to the original papers, copies of which are herewith filed, and which your petitioners pray may be made a part of this petition. That said lands were granted to Don Vicente de la Ossa by Gov. Manuel Micheltorena, on the 23d day of March, A. D. 1843, by virtue of the Colonization Laws of August 18th, 1824, the instructions and regulations of November 21, 1828, and the various laws of Mexico, and the customs of the country affecting grants of land in California.

"Your petitioners further show, that on or about the 18th day of March, A. D. 1846, said grant received the approval of the Departmental Assembly, and on or about the 4th day of May, A. D. 1843, the said Don Vicente de la Osa received judicial possession of said lands, and was put in possession thereof by the proper judicial officer.

"Your petitioners further show, that on or about the 30th day of October, A. D. 1849, the said Don Vicente de la Osa, by deed, duly authenticated, sold and conveyed the said lands to your petitioners, together with all the rights and claims of the said Don Vicente de la Osa therein, his heirs and assigns forever; reference being had to said original deed, a copy of which is herewith filed, and which your petitioners pray may be made part of this petition. The evidence upon which your petitioners rely, are the records of this grant in the office of the United States Surveyor-General, original papers, copies of which are herewith filed, and the testimony of witnesses to be produced before your Honorable Board, respectfully submitted for such action as the justice and nature of the claim may require."

Your petitioners further represent, that thereafter, to wit: On the 18th day of October, A. D. 1853, the said Commissioners confirmed by final decree the said claim of the said David W. Alexander and Francis Mellus, in the words and figures following, to wit: "David W. Alexander and Francis Mellus v. the United States.

"In this case, on hearing the proof and allegations, it is adjudged

by the Commissioners, that the claim of the said petitioners is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made, are known by the name of Providencia, and are bounded and described as follows, to wit: commencing at the southeast corner of said premises at a hill where the River Pueblo heads, and running thence northwardly to an oak tree, which is marked for a corner, five thousand varas, thence running west five thousand varas to another oak tree, which is marked for a corner; thence running south five thousand varas to a high hill near a valley, thence running east five thousand varas to the place of beginning, containing in all one square league. Reference for further description, to be had to a map which is made a part of document marked Exhibit "A," and filed in this case. It is understood that this decree in no way prejudices the rights of the Indian Jose Miguel, who occupies a piece of ground within the boundaries above described.

"ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

"Filed in office October 18th, 1853.

"GEORGE FISHER,
Secretary."

That thereafter, to wit, on the 22d day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the Clerk of the District Court of the United States, for the Southern District of California, and marked No. 338, reference to which it is prayed may be had, and made a part of this petition.

That on the 26th day of July, A. D. 1854, the Honorable Caleb Cushing, Attorney-General of United States, received a duly certified duplicate of said transcript of said final decree, and final decree and proceedings of said Commissioners in said cause, No. 338, and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 5th day of December, A. D. 1854, the said Attorney-General of the United States, filed or caused to be filed on behalf of the United States, a notice with the said Clerk of the said District Court, for the Southern District of California, that the appeal in said cause of David W. Alexander and Francis Mellus v. The United States, from the decision of the said Commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid, is within the jurisdiction of this Honorable Court.

And your petitioner further represents and insists, that the said

decree of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said Commissioners to this Honorable Court.

And your petitioners further represent that the said claim is invalid, and the said decree erroneous on the following grounds.

1. That the said David W. Alexander and Francis Mellus, show no valid title to the said land claimed by them as aforesaid, and it is denied that they have any.

2. That the said alleged grant of Governor Micheltorena, was made in violation of the 4th Article of the Colonization Law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted as alleged by claimants, was and is within ten leagues of the sea-coast. And there is no evidence by claimants that the Supreme General Executive Power of Mexico, previously approved of the colonization of the lands of California, within ten leagues of the sea-coast. And it is denied that such previous consent of said Supreme General Executive Power of Mexico in such case was ever had.

3. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by the Missions of California, and particularly by the Mission of San Francisco, and an Indian named José Miguel.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the law of Mexico of the 18th of August, A.D. 1824, and the regulations for the colonization of the territories of Mexico of the 20th of November, A.D. 1828.

5. That the said alleged grant of said land by said Governor Micheltorena, is not upon the lawful stamped paper; that it does not describe the land by definite metes and bounds so that it can be identified; that the map referred to in said grant is vague, uncertain, and indefinite.

6. That the alleged approval of the Departmental Assembly was invalid, because it suppresses one of the conditions of said grant, to wit: the condition reserving the right of the mission of San Fernandez to plant or sow in dry seasons upon the said land.

7. That the alleged juridical possession of said land by Antonio Ma. Coronel of the date of the about the 4th of May, A.D. 1843, was illegal, for the reason that the said Ossa had not at that time a definite grant of the said land, and it had not been approved by the Departmental Assembly of California.

8. That there is no evidence in the said transcript that said Antonio Ma. Coronel, 2d Alcalde, had lawful authority to make the measurements and give possession of said tract of land as alleged.

9. That the said Antonio Ma. Coronel did not measure the said land according to the ordinance or law, or according to the calls in

the said grant and map referred to therein, that the said measurements in said alleged act of judicial possession by said Coronel are vague, indefinite, and uncertain.

10. That the alleged deed of conveyance of said Vicente de la Ossa to said claimants, does not describe the land pretended to be conveyed, so that it can be identified as the same land alleged to have been granted to said Ossa by said Governor Micheltorena. And that there is no evidence that Juan Sepulvedar, whose name is signed to said conveyance as Alcalde, was such at the date of the same.

And no proof having been made by said claimants of the allegations of their said petition, or in support of their said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed, and said claim refuted by said Commissioners upon the grounds aforesaid.

Wherefore the said Pacificus Ord, attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and the laws and statutes in such case made and provided, prays that the said David W. Alexander and Francis Mellus, or their attorney, may be served with a copy of this petition, and that the Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said David W. Alexander and Francis Mellus, for said land claimed as aforesaid, and that the same may be decreed invalid, and all such other orders, judgments, or decrees as may be just, with costs and general relief.

(Signed) P. ORD,
Attorney of the United States for the Southern District of California.

Filed December 21st, 1854.

(Signed) C. E. CARR,
Clerk.

A copy of the foregoing petition was served upon the said David W. Alexander and Francis Mellus by the United States Marshal, on the 2d day of March, A.D. 1855.

In the United States District Court for the Southern District of the State of California.

DAVID W. ALEXANDER & FRANCIS MELLUS, Appellees,
v.
THE UNITED STATES, Appellants.

Case No. 30.
For the Rancho of "Providencia," containing one square league, in Los Angeles County.

Answer to Petition for Review.

And now come the above-named appellees, David W. Alexander

and Francis Mellus, by J. R. Scott, their attorney, and for answer to the petition of the appellant filed in this cause say, that on the 23d day of March, A.D. 1843, Manuel Micheltorena, constitutional and acting Governor of Upper California, and duly authorized by law to grant said land, by his deed of grant of that date, duly executed according to law, did grant and convey to Vicente de la Osa the lands called Providencia, containing one square league, a little more or less, which said land was duly admeasured and judicial possession thereof given to the said Vicente de la Osa by the competent judicial authorities of the district wherein said lands were situate, according to law, on the 4th day of May, A.D. 1843, and that said grant was made definitively valid by being approved in manner and form as required by law, by the Departmental Assembly of Upper California, on the 18th day of March, A.D. 1846, whereby the said Vicente de la Osa became seized in fee simple of the lands aforesaid, as these appellees aver that the said Vicente de la Osa did, during all the time he held said lands, do, perform, and fulfil all the conditions that were by law necessary to be done, performed, and fulfilled to perfect his title to said lands.

And these appellants further say, that on the 30th day of October, A.D. 1849, the said Vicente de la Osa did, by his deed and conveyance of that date, duly executed by him, grant, sell, and convey to these appellees the whole of the tract of land aforesaid, and that ever since that date said appellees have been in peaceable and quiet possession thereof.

And these appellees further say, that on the 11th day of September, A.D. 1852, they presented to the United States Board of Land Commissioners their petition setting forth their title and praying for a confirmation to them of said lands by the said Board, and these appellees filed before said Commissioners certain documentary evidence, and the depositions of witnesses, all of which are contained in transcript of proceedings had before said Board now on file in the office of the Clerk of this Honorable Court, and to all which these appellees refer in this their answer.

And these appellees further say, that after hearing the petition and proofs of these appellees, the said Board of Commissioners by their decree made October 18th, 1853, confirmed said lands to these appellees.

And these appellees further say, that they are the legal owners of said lands, and entitled to have the same confirmed to them by this Honorable Court, and they say that they and the person under whom they hold, have done, performed and fulfilled all things that were necessary to be done, performed and fulfilled, to entitle them to such confirmation by the laws of the land, and particularly by a law of the Congress of the United States, entitled "An Act to Ascertain and Settle the Private Land Claims in the State of California." Approved March 3d, 1851.

And these appellees further state, that the said lands are situate in the Southern District of the State of California, and within the jurisdiction of this Honorable Court: and for further answer to the petition for review filed in this case by the appellant, these appellees say, that they deny all and singular, each and every allegation therein contained, except such as are admitted in this their answer, and they deny that there is anything in said petition contained, either in law or fact, to estop or prevent this Honorable Court from affirming the decision of said Board of Commissioners, and confirming to these appellees their title to the lands in this case.

And these appellees would pray the judgment of this Honorable Court, that the decision of said Board of Commissioners may be affirmed, and that their title to the said lands of "Providencia" may be confirmed, and that they may be dismissed hence with costs, and may have such other and further relief as may be agreeable to equity and good conscience, and the nature of their case may require.

(Signed) J. R. SCOTT,
Attorney for Appellees.

Filed March 19th, 1855.

A copy of the foregoing answer served on the United States District Attorney, for the Southern District of California, by the United States Marshal. March 19th, 1855.

In the United States Court for the Southern District of California.

THE UNITED STATES, Appellant,
v.
DAVID W. ALEXANDER and
FRANCIS MELLUS, Appellees. } No. 30.

Claim for the Rancho of "Providencia."

And now on this day of A.D. 1855, the parties appear in Court, the appellant appearing by P. Ord, United States District Attorney for the Southern District of California, and the appellees appearing by J. R. Scott, their attorney, and on motion of appellees' attorney, It is ordered that either party may take such further testimony as they shall wish in the above-entitled cause.

Stipulation.

In the District Court of the United States for the Southern District of California.

THE UNITED STATES
v.
DAVID W. ALEXANDER and FRANCIS MELLUS. } Case No. 30.

It is stipulated that the above defendant, David W. Alexander and Francis Mellus, have until the 20th day of March, 1855, in which to

answer the petition filed on the part of the United States in the above cause.

(Signed) J. R. SCOTT,
Attorney for Alexander and Mellus.

(Signed) P. ORD,
Los Angeles, March 10th, 1855. Attorney of the United States, S. D. C.

Filed March 10th, 1855.

C. E. CARR,
Clerk.

Testimony of Henry Dalton.

ALEXANDER and MELLUS
ads.
THE UNITED STATES. } No. 30.

"Providencia."

Henry Dalton, witness for appellees, being duly sworn, to the questions of Counsels, answers as follows:

Question. What is your name, age, and place of residence?

Answer. My name is Henry Dalton; my age 51; residence, County of Los Angeles.

Question. State whether you know Juan Sepulveda; if so, where did he reside in '49, and what office did he hold?

Answer. I do. To the best of my knowledge he resided at his Rancho of San Pedro, and here occasionally. I was absent during part of '49; but whilst I was here in that year, I believe he was Alcalde, or Justice of the Peace.

Question. For how long were Alcaldes elected?

Answer. For one year.

(Signed) HENRY DALTON.

Sworn to and subscribed before me,

C. E. CARR,
Clerk.

Filed September 19th, 1855.

C. E. CARR,
Clerk.

Testimony of Vicente de la Ossa.

ALEXANDER and MELLUS
ads.
THE UNITED STATES. } No. 30.

Vicente de la Ossa, witness for appellees, being duly sworn, to the questions of Counsels answers as follows:

Question. What is your name, age, and place of residence?

Answer. Vicente de la Oza; 55 years of age; and I reside in the County of Los Angeles.

Question. Are you acquainted with the Rancho of Providencia; if

so, state how long, and any facts you may know of its occupation from the years 1843 to '49, how and by whom?

Answer. I do. I have known since 1842. I occupied it from 1844 to 1850, when I sold it to Alexander and Mellus. I occupied with a house, cultivation, and with corral and cattle.

Question. To whom was the rancho granted?

Answer. To me.

Question. By whom was it granted to you?

Answer. The first proceedings in the case were had before Governor Alvarado; but the grant was not made until under Micheltorena.

Question. How long after the land was granted to you was it that you built a house and commenced to occupy it?

Answer. In '43; possession was given in May, and I occupied it in March, '44.

Question. Did you build a house before or after you went to live on it?

Answer. When I first went on it in March, I built a temporary building, after which I built a permanent one, and continued to live there.

Question. To whom did you sell the land?

Answer. I sold it to Francis Mellus and D. W. Alexander.

Question. Before what officer was the conveyance made?

Answer. I don't remember; but I think it was Juan Sepulvida.

Question. What office did Sepulvida hold at the time, and where did he reside?

Answer. He was a Justice, I think, and lived here in Los Angeles City.

Question. Where does this land lie?

Answer. In the County of Los Angeles.

Question. State whether or not the land which you occupied, as above described, was the same granted to you by Micheltorena, and was the same of which judicial possession was given you?

Answer. Yes, it is the same.

Cross-examined.

Question. What year did you build a permanent house upon said land?

Answer. I finished my permanent house in November, 1844.

(Signed) VICENTE DE LA OSSA.

Sworn to and subscribed before me,

C. E. CARR,
Clerk.

Filed September 19th, 1855.

C. E. CARR,
Clerk.

ALEXANDER and MELLUS, Appellees,
ads.
THE UNITED STATES, Appellants. } No. 30.

For Providencia.

This cause coming on to be heard on this day, and counsel for the respective parties being present here in Court, this cause was submitted to the Court here for its decision on the transcript from the United States Land Commissioners, notice of appeal, petition, &c., on the part of the appellant, and upon the testimony of Vicente de la Ossa and Henry Dalton, witnesses, who were duly sworn and testified on behalf of the appellee in open Court, and the papers and documentary evidence on file in this case on the part of the appellees, and after argument of counsel this cause was submitted for final adjudication.

ALEXANDER & MELLUS, Appellees,
v.
THE UNITED STATES, Appellant. } No. 30.

"Providencia." District Court of the United States, Southern District of California.

Decree.

This cause coming on to be heard at a special term of this Court, on an appeal from the final decision of the United States Commissioners to ascertain and settle private land claims in the State of California, under the Act of Congress, approved March 3d, 1851, upon the transcript of the decision and proceedings, and papers, and evidence on which said decision was founded, and an additional testimony taken in this Court. And it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the decision of the said Commissioners be and is hereby affirmed, and that the claim of the said David W. Alexander and Francis Mellus, Appellees, to the land as hereinafter described, is valid. The lands, of which confirmation is hereby now known by the name of Providencia, and are bounded and described as follows, to wit: commencing at the southeast corner of said premises, at the hill where the river of the Puebla heads, running thence northerly to an oak tree, which is marked for a corner, five thousand varas; thence running west five thousand varas to another oak tree, which is also marked for a corner; thence running south five thousand varas to a high hill; thence running east five thousand varas to the place of beginning: containing in all one square league, reference for further description being had to a map, which is made a part of document marked Exhibit "A," and filed in this case, it being

understood that this decree shall in no way prejudice the rights of the Indian, Jose Miguel, nor his heirs, named in the grant, as being in the possession of part of the land described in this decree.

(Signed) ISAAC S. K. OGIER,
U. S. District Judge.

In the United States District Court for the Southern District of California.

LOS ANGELES, Special Term, Sept. 1855.

ALEXANDER & MELLUS, Appellees,
v.
THE UNITED STATES, Appellant.
} No. 30. Transcript No. 338.

Motion and Order for Appeal.

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court, against the United States, in the above-entitled cause, rendered on or about the 25th day of September, A.D. 1855.

(Signed) P. ORD,
U. S. District Attorney.

Filed October 18th, 1855.

C. E. CARR,
Clerk.

United States District Court, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, Nov. 30, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing sixteen pages, numbered from 1 to 16, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said Court, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in the office, in Case No. 30 on the docket of the said Court, wherein Alexander & Mellus are appellees, and the United States are appellants for "Providencia."

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of said Court, at Los Angeles, California, this thirtieth day of November, A.D. 1855, and of the Independence of the United States of America the eightieth.

C. E. CARR,
Clerk.